

ASSEMBLY, No. 1592

STATE OF NEW JERSEY

211th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2004 SESSION

Sponsored by:

Assemblyman JOHN J. BURZICHELLI

District 3 (Salem, Cumberland and Gloucester)

Assemblyman WILLIAM D. PAYNE

District 29 (Essex and Union)

Co-Sponsored by:

Assemblywoman Watson Coleman, Assemblyman Conaway and

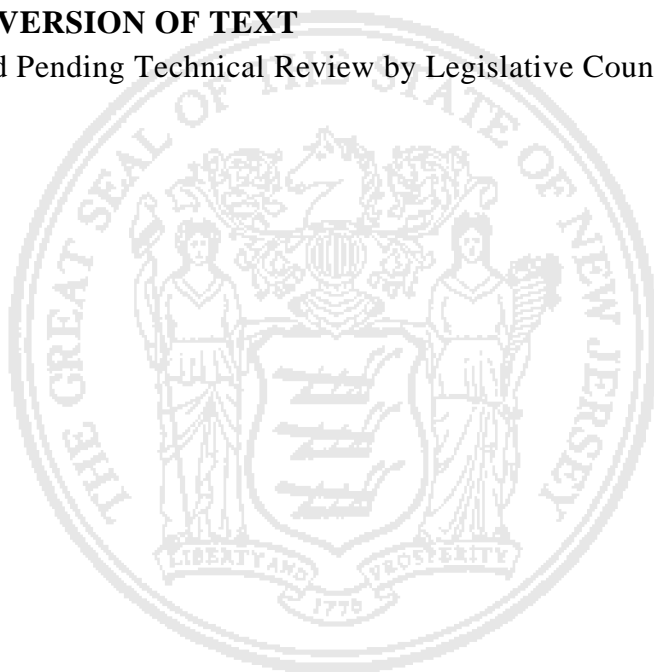
Assemblywoman Greenstein

SYNOPSIS

Restructures child protective services in DHS.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning child protective services and revising various
2 parts of the statutory law.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. (New section) The Legislature finds and declares that:

8 a. The State child protection agency, known as the Division of
9 Youth and Family Services, has been charged with many disparate
10 responsibilities that are dividing its limited resources, and needs to re-
11 focus on its core mission of child protection, foster care and adoption;

12 b. Case workers and supervisors have not been provided with
13 sufficient training opportunities to develop the leadership qualities that
14 are essential to improving management within the State child
15 protection agency;

16 c. Although the goal of child protection cannot be accomplished
17 without the help of other State departments and community agencies,
18 the rules governing confidentiality have restricted these entities from
19 sharing vital information on vulnerable children with the State child
20 protection agency;

21 d. The Department of Human Services needs to improve
22 communication and collaboration on child protection issues within the
23 department;

24 e. The department desires to make the planning, coordination and
25 accountability of all children's services administered by the department
26 a greater priority;

27 f. The magnitude and complexity of these problems requires the
28 restructuring of children's services within the department and the
29 transformation of the State child protection agency; and

30 g. It is necessary and appropriate to establish a new Division of
31 Child Protection and Permanency in the Department of Human
32 Services to assume the core functions of child protection, foster care
33 and adoption from among the various responsibilities with which the
34 State child protection agency has been charged to date, as well as
35 providing for a new deputy commissioner with responsibility for direct
36 supervision of children's services within the department, while
37 authorizing the Commissioner of Human Services to assign the
38 functions, powers and duties of children's services among and within
39 those components of the department as the commissioner deems
40 appropriate.

41
42 2. (New Section) a. The Division of Youth and Family Services
43 in the Department of Human Services is continued and reconstituted

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 as the Division of Child Protection and Permanency, to which the
2 Commissioner of Human Services shall assign the core functions of
3 child protection, foster care and adoption from among the various
4 responsibilities of the former Division of Youth and Family Services,
5 as provided pursuant to this act and any other statute or regulation.

6 b. (1) The functions, powers and duties of the former Division of
7 Youth and Family Services that are not allocated to the Division of
8 Child Protection and Permanency pursuant to this act are continued
9 and allocated within the Department of Human Services.

10 (2) The commissioner shall have the authority to assign and
11 reassign the functions, powers and duties of children's services within
12 the department, including those of the former Division of Youth and
13 Family Services, among any division, board, body or other
14 organizational unit within the department as the commissioner deems
15 appropriate, provided that any functions, powers and duties assigned
16 to the Division of Child Protection and Permanency shall not be such
17 as to interfere with the core functions of the division as provided in
18 subsection a. of this section.

19
20 3. (New section) a. The Department of Human Services shall
21 establish a training academy to ensure proper case management and
22 develop effective leadership within the Division of Child Protection
23 and Permanency. The purpose of the training academy shall be to
24 provide training for casework, supervisory and management staff.
25 Caseworkers shall be provided with initial training upon their
26 employment with the division, as well as continuing professional
27 training. New supervisors and management staff, as well as those
28 being considered for supervisory and management roles, shall be
29 provided with training and mentoring opportunities in order to create
30 a career ladder that stresses management capacity.

31 The Commissioner of Human Services shall review the training
32 academy at least biennially and modify it as needed, and shall be
33 responsible for ensuring that caseworkers, supervisors, casework
34 supervisors, managers and others in leadership roles receive this
35 training. The training programs provided by the training academy shall
36 be designed to ensure that leadership succession plans are viable and
37 based on fitness to serve.

38 b. The training program provided by the training academy for
39 casework staff shall:

40 (1) include a case practice curriculum;

41 (2) utilize a curriculum that provides exposure to the best practices
42 in case management through didactic and experiential learning,
43 including, but not limited to, such topics as: the legal basis for
44 children's social services, the conduct of child abuse and neglect
45 investigations, age-appropriate interviewing techniques, case
46 assessment, evaluation of safety and risk factors, permanency, types

1 of abuse; the closing of cases, and case planning and provision of
2 services; and

3 (3) require that all caseworkers within the Division of Child
4 Protection and Permanency complete any course that they are required
5 to take under the training program prior to assuming sole
6 responsibility for a case.

7 c. The training program provided by the training academy for
8 supervisory and management staff shall:

9 (1) include both a case practice and organizational management
10 curriculum;

11 (2) utilize a curriculum that provides exposure to the best practices
12 in leadership through didactic and experiential learning, including, but
13 not limited to, such topics as: leading in a social services environment,
14 becoming an agent for change while championing stability and
15 permanency, leading and following as dynamics of organizational life,
16 leading across cultures, social services management, social policy and
17 program planning, evaluating social programs, and assessing the
18 impact of the life cycle stage of employees; and

19 (3) require that all supervisors and management staff who hold a
20 leadership role within the Division of Child Protection and Permanency
21 complete any course that they are required to take under the training
22 program within one year of assuming a leadership role.

23 d. The commissioner shall conduct a study to determine how to
24 best enhance the professionalism of child welfare practitioners in the
25 Division of Child Protection and Permanency, which shall include, but
26 need not be limited to, an evaluation of:

27 (1) the minimum acceptable professional standards for new
28 caseworkers, supervisors and management staff; and

29 (2) the feasibility and benefits of requiring professional licensure,
30 certification or other professional accreditation for caseworkers,
31 supervisors, casework supervisors and management staff.

32

33 4. (New section) a. The Commissioner of Human Services shall
34 conduct a study to evaluate case complexity and to make
35 recommendations for and implement workload standards.

36 The purpose of the study shall be to provide district office and
37 adoption resource center supervisory staff with a means to more
38 effectively allocate caseworker staff to meet the needs of children who
39 are under the care, custody or supervision of the Division of Child
40 Protection and Permanency.

41 b. The study shall, at a minimum, take into account the following
42 factors:

43 (1) the number of siblings under the care, custody or supervision
44 of the division, living in the same household;

45 (2) the number of siblings under the care, custody or supervision
46 of the division, living in different households;

1 (3) whether the child under the care, custody or supervision of the
2 division, or the child's parent, has significant physical or mental health
3 needs;

4 (4) whether the child under the care, custody or supervision of the
5 division, or the child's parent, has a substance abuse disorder;

6 (5) whether the child under the care, custody or supervision of the
7 division has other significant social service or educational needs that
8 require specialized services;

9 (6) the distance between the caseworker's district office or
10 adoption resource center and the home or out-of-home placement of
11 the child under the care, custody or supervision of the division;

12 (7) whether there is court involvement in the case; and

13 (8) whether the child under the care, custody or supervision of the
14 division, or the child's parent, has a past history with the division.

15
16 5. (New section) The Commissioner of Human Services shall
17 report to the Governor and the Legislature:

18 a. No later than 16 months after the effective date of this act, on
19 the findings and recommendations and implementation plan resulting
20 from the study to evaluate case complexity and to make
21 recommendations for and implement workload standards pursuant to
22 section 4 of this act; and

23 b. No later than one year after the effective date of this act, on:

24 (1) the structure of children's services within the Department of
25 Human Services;

26 (2) the implementation and status of the training programs
27 provided by the training academy pursuant to subsections a., b. and c.
28 of section 3 of this act; and

29 (3) the results of the study conducted by the commissioner to
30 determine how to best enhance the professionalism of child welfare
31 practitioners in the Division of Child Protection and Permanency
32 pursuant to subsection d. of section 3 of this act.

33
34 6. (New section) As used in sections 6 through 16 of P.L. , c.
35 (C.) (pending before the Legislature as this bill):

36 "Department" means the Department of Human Services.

37 "Division" means the Division of Child Protection and Permanency
38 in the Department of Human Services.

39 "Residential child care facility" or "facility" means any public or
40 private establishment subject to the regulatory authority of the
41 department that provides room, board, care, shelter or treatment
42 services for children on a 24-hour-a-day basis. The term shall include:
43 residential facilities operated by or under contract or agreement with
44 the division to serve 13 or more children with emotional or behavioral
45 problems as defined pursuant to section 2 of P.L.1951, c.138
46 (C.30:4C-2); group homes, treatment homes, teaching family homes,

1 alternative care homes and supervised transitional living homes
2 operated by or under contract or agreement with the division to serve
3 12 or fewer children with emotional or behavioral problems as defined
4 pursuant to N.J.A.C.10:128-1.2; and shelter care facilities and homes,
5 including shelters serving children in juvenile-family crisis and in need
6 of temporary shelter care, as defined pursuant to section 3 of
7 P.L.1982, c.77 (C.2A:4A-22).

8 "Staff member" means an individual 18 years of age or older who
9 is an administrator of, employed by, or works in a facility on a
10 regularly scheduled basis during the facility's operating hours,
11 including full-time, part-time, voluntary, contract, consulting and
12 substitute staff, whether compensated or not.

13
14 7. (New section) a. As a condition of securing or maintaining a
15 certificate of approval from the department, the administrator of a
16 facility shall ensure that a criminal history record background check is
17 conducted on each staff member of the facility.

18 b. If the administrator of the facility refuses to consent to, or
19 cooperate in, the securing of a criminal history record background
20 check, the department shall suspend, deny, revoke or refuse to renew
21 the facility's certificate of approval, as appropriate.

22 c. If a staff member of a facility, other than the administrator,
23 refuses to consent to, or cooperate in, the securing of a criminal
24 history record background check, the individual shall be immediately
25 terminated from employment at the facility.

26
27 8. (New section) a. In the case of a facility established after the
28 effective date of sections 6 through 16 of P.L. , c. (C.) (pending
29 before the Legislature as this bill), the administrator of the facility,
30 prior to the facility's opening, shall ensure that a request for a criminal
31 history record background check on each staff member is sent to the
32 department for processing by the Division of State Police in the
33 Department of Law and Public Safety and the Federal Bureau of
34 Investigation.

35 A staff member shall not be left alone as the only adult caring for
36 a child at the facility until the staff member's criminal history record
37 background has been reviewed by the department pursuant to sections
38 6 through 16 of P.L. , c. (C.) (pending before the Legislature as
39 this bill).

40 b. In the case of a facility granted a certificate of approval prior to
41 the effective date of sections 6 through 16 of P.L. , c. (C.)
42 (pending before the Legislature as this bill), the administrator of the
43 facility, at the time of the facility's first renewal of its certificate of
44 approval, shall ensure that a request for a criminal history record
45 background check on each staff member is sent to the department for
46 processing by the Division of State Police and the Federal Bureau of

1 Investigation.

2 c. Within two weeks after a new staff member begins employment
3 at a facility, the administrator of the facility shall ensure that a request
4 for a criminal history record background check on the new staff
5 member is sent to the department for processing by the Division of
6 State Police and the Federal Bureau of Investigation.

7 A new staff member shall not be left alone as the only adult caring
8 for a child at the facility until the staff member's criminal history
9 record background has been reviewed by the department pursuant to
10 to sections 6 through 16 of P.L. , c. (C.) (pending before the
11 Legislature as this bill).

12

13 9. (New section) Except as provided in subsection d. of this
14 section, a current staff member or an applicant for employment shall
15 be permanently disqualified from employment at or administering a
16 facility if the criminal history record background check of the staff
17 member or applicant reveals a record of conviction for any of the
18 following crimes and offenses:

19 a. In New Jersey, any crime or disorderly persons offense as
20 follows:

21 (1) a crime against a child, including endangering the welfare of a
22 child and child pornography pursuant to N.J.S.2C:24-4; child
23 molestation as set forth in N.J.S.2C:14-1 et seq.;

24 (2) abuse, abandonment or neglect of a child pursuant to
25 R.S.9:6-3;

26 (3) endangering the welfare of an incompetent person pursuant to
27 N.J.S.2C:24-7;

28 (4) sexual assault, criminal sexual contact or lewdness pursuant to
29 N.J.S.2C:14-2 through N.J.S.2C:14-4;

30 (5) murder pursuant to N.J.S.2C:11-3 or manslaughter pursuant to
31 N.J.S.2C:11-4;

32 (6) stalking pursuant to section 1 of P.L.1992, c.209 (C.2C:12-10);

33 (7) kidnaping and related offenses including criminal restraint, false
34 imprisonment, interference with custody, criminal coercion, or enticing
35 a child into a motor vehicle, structure or isolated area pursuant to
36 N.J.S.2C:13-1 through N.J.S.2C:13-5 and section 1 of P.L.1993,
37 c.291 (C.2C:13-6);

38 (8) arson pursuant to N.J.S.2C:17-1, or causing or risking
39 widespread injury or damage, which would constitute a crime of the
40 second degree pursuant to N.J.S.2C:17-2;

41 (9) aggravated assault, which would constitute a crime of the
42 second or third degree pursuant to subsection b. of N.J.S.2C:12-1;

43 (10) robbery, which would constitute a crime of the first degree
44 pursuant to N.J.S.2C:15-1;

45 (11) burglary, which would constitute a crime of the second degree
46 pursuant to N.J.S.2C:18-2;

1 (12) domestic violence pursuant to P.L.1991, c.261 (C.2C:25-17
2 et seq.);

3 (13) terroristic threats pursuant to N.J.S.2C:12-3; or

4 (14) an attempt or conspiracy to commit any of the crimes or
5 offenses listed in paragraphs (1) through (13) of this subsection.

6 b. In any other state or jurisdiction, of conduct which, if committed
7 in New Jersey, would constitute any of the crimes or disorderly
8 persons offenses described in subsection a. of this section.

9 c. Notwithstanding the provisions of this section to the contrary,
10 an individual shall not be disqualified from employment at or
11 administering a facility under sections 6 through 16 of P.L. , c.
12 (C.) (pending before the Legislature as this bill) on the basis of any
13 conviction disclosed by a criminal history record background check
14 performed pursuant to sections 6 through 16 of P.L. , c. (C.)
15 (pending before the Legislature as this bill) without an opportunity to
16 challenge the accuracy of the disqualifying criminal history record
17 pursuant to the provisions of section 12 of P.L. , c. (C.) (pending
18 before the Legislature as this bill).

19 d. If a staff member of a facility is convicted of a crime specified
20 in subsection a. of this section, the staff member shall be terminated
21 from employment at or administering a facility, except that the
22 department may approve the individual's employment at, or
23 administration of, the facility if all of the following conditions are met:

24 (1) the department determines that the crime does not relate
25 adversely to the position the individual is employed in pursuant to the
26 provisions of P.L.1968, c.282 (C.2A:168A-1 et seq.);

27 (2) the conviction is not related to a crime committed against a
28 child, as specified in subsection a. of this section;

29 (3) the facility documents that the individual's employment or
30 administration of the facility does not create a risk to the safety or
31 well-being of children due to the nature and requirements of the
32 position; as necessary, the facility shall identify restrictions regarding
33 the individual's contact with, care or supervision of children;

34 (4) the facility documents that the individual is uniquely qualified
35 for the position due to specific skills, qualifications, characteristics or
36 prior employment experiences; and

37 (5) the department determines that the individual has affirmatively
38 demonstrated rehabilitation, pursuant to the factors specified in
39 subsection b. of section 10 of P.L. , c. (C.) (pending before the
40 Legislature as this bill).

41

42 10. (New section) a. For crimes and offenses other than those
43 cited in subsection a. of section 9 of P.L. , c. (C.) (pending before
44 the Legislature as this bill), an applicant or staff member may be
45 eligible for employment at, or to administer, a facility if the individual
46 has affirmatively demonstrated to the department clear and convincing

1 evidence of rehabilitation pursuant to subsection b. of this section.

2 b. In determining whether an individual has affirmatively
3 demonstrated rehabilitation, the following factors shall be considered:

4 (1) the nature and responsibility of the position at the facility that
5 the convicted individual would hold, has held or currently holds, as the
6 case may be;

7 (2) the nature and seriousness of the offense;

8 (3) the circumstances under which the offense occurred;

9 (4) the date of the offense;

10 (5) the age of the individual when the offense was committed;

11 (6) whether the offense was an isolated or repeated incident;

12 (7) any social conditions that may have contributed to the offense;

13 and

14 (8) any evidence of rehabilitation, including good conduct in prison
15 or in the community, counseling or psychiatric treatment received,
16 acquisition of additional academic or vocational schooling, successful
17 participation in correctional work-release programs, or the
18 recommendation of those who have had the individual under their
19 supervision.

20 c. The department shall make the final determination regarding the
21 employment of the administrator of a facility with a criminal conviction
22 specified under this section.

23 d. The administrator of the facility or the facility's board of
24 directors shall make the final determination regarding the employment
25 of a staff member or applicant with a criminal conviction specified
26 under this section.

27 e. If the administrator of a facility has knowledge that a staff
28 member has criminal charges pending against the staff member, the
29 administrator shall promptly notify the department to determine
30 whether or not any action concerning the staff member is necessary in
31 order to ensure the safety of the children who are placed in the facility.
32

33 11. (New section) a. A facility that has received an employment
34 application from an individual or currently employs a staff member
35 shall be immune from liability for acting upon or disclosing information
36 about the disqualification or termination of that applicant or staff
37 member to another facility seeking to employ that individual if the
38 facility has:

39 (1) received notice from the department or the facility's board of
40 directors, as applicable, that the applicant or staff member has been
41 determined by the department or the board of directors to be
42 disqualified from employment at a facility pursuant to sections 6
43 through 16 P.L. , c. (C.)(pending before the Legislature as this
44 bill); or

45 (2) terminated the employment of a staff member because the
46 individual was disqualified from employment at the facility on the basis

1 of a conviction of a crime pursuant to section 9 of P.L. , c. (C.)
2 (pending before the Legislature as this bill) after commencing
3 employment at the facility.

4 b. A facility that acts upon or discloses information pursuant to
5 subsection a. of this section shall be presumed to be acting in good
6 faith unless it is shown by clear and convincing evidence that the
7 facility acted with actual malice toward the individual who is the
8 subject of the information.

9
10 12. (New section) a. The Commissioner of Human Services is
11 authorized to exchange fingerprint data with, and to receive
12 information from, the Division of State Police in the Department of
13 Law and Public Safety and the Federal Bureau of Investigation.

14 Upon receipt of the criminal history record information for an
15 applicant or staff member of a residential child care facility from the
16 Federal Bureau of Investigation and the Division of State Police, the
17 Department of Human Services shall notify the applicant or staff
18 member, as applicable, and the residential child care facility, in writing,
19 of the applicant's or staff member's qualification or disqualification for
20 employment or service under sections 6 through 16 of P.L. , c.
21 (C.) (pending before the Legislature as this bill). If the applicant or
22 staff member is disqualified, the convictions that constitute the basis
23 for the disqualification shall be identified in the written notice to the
24 applicant or staff member. The applicant or staff member shall have
25 14 days from the date of the written notice of disqualification to
26 challenge the accuracy of the criminal history record information. If
27 no challenge is filed or if the determination of the accuracy of the
28 criminal history record information upholds the disqualification, the
29 department shall notify the facility that the applicant or staff member
30 has been disqualified from employment.

31 b. The Division of State Police shall promptly notify the
32 Department of Human Services in the event an applicant or staff
33 member, who was the subject of a criminal history record background
34 check conducted pursuant to subsection a. of this section, is convicted
35 of a crime or offense in this State after the date the background check
36 was performed. Upon receipt of such notification, the department shall
37 make a determination regarding the employment of the applicant or
38 staff member.

39
40 13. (New section) a. As a condition of securing or maintaining a
41 certificate of approval from the department, the administrator of a
42 facility shall ensure that the division conducts a child abuse record
43 information check of its child abuse records to determine if an incident
44 of child abuse or neglect has been substantiated, pursuant to section
45 4 of P.L.1971, c.437 (C.9:6-8.11), against any staff member of the
46 facility.

1 b. The department shall not issue a certificate of approval to a
2 facility until the facility has requested that the division conduct a child
3 abuse record information check on each staff member employed by or
4 working at the facility.

5 c. The department shall deny, revoke or refuse to renew the
6 facility's certificate of approval, as appropriate, if the department
7 determines that an incident of child abuse or neglect by an
8 administrator of a facility has been substantiated.

9 d. Each staff member of a facility shall provide prior written
10 consent for the division to conduct a child abuse record information
11 check.

12 e. If the administrator of the facility refuses to consent to, or
13 cooperate in, the securing of a division child abuse record information
14 check, the department shall suspend, deny, revoke or refuse to renew
15 the facility's certificate of approval, as appropriate.

16 f. If a staff member of the facility, other than the administrator,
17 refuses to consent to, or cooperate in, the securing of a division child
18 abuse record information check, the individual shall be immediately
19 terminated from employment at the facility.

20 g. The division shall complete the child abuse record information
21 check within 45 days after receiving the request for the check.

22
23 14. (New section) a. In the case of a facility established after the
24 effective date of sections 6 through 16 of P.L. , c. (C.) (pending
25 before the Legislature as this bill), the administrator of the facility,
26 prior to the facility's opening, shall ensure that a request for a child
27 abuse record information check on each staff member is sent to the
28 division.

29 A staff member shall not be left alone as the only adult caring for
30 a child at the facility until the results of the staff member's child abuse
31 record information check have been received by the administrator of
32 the facility.

33 b. In the case of a facility granted a certificate of approval prior to
34 the effective date of sections 6 through 16 of P.L. , c. (C.)
35 (pending before the Legislature as this bill), the administrator of the
36 facility, at the time of the facility's first renewal of its certificate of
37 approval, shall ensure that a request for a child abuse record
38 information check on each staff member is sent to the division.

39 c. Within two weeks after a new staff member begins employment
40 at a facility, the administrator of the facility shall ensure that a request
41 for a child abuse record information check on the new staff member is
42 sent to the division.

43 A new staff member shall not be left alone as the only adult caring
44 for a child at the facility until the results of the staff member's child
45 abuse record information check have been received by the
46 administrator of the facility.

1 d. If the division determines that an incident of child abuse or
2 neglect by a staff member has been substantiated, the division shall
3 advise the administrator of the facility of the results of the child abuse
4 record information check and the facility shall immediately terminate
5 the individual from employment at the facility.

6 e. The department shall consider, for the purposes of sections 6
7 through 16 of P.L. , c. (C.) (pending before the Legislature
8 as this bill), any incidents of child abuse or neglect that were
9 substantiated on or after June 29, 1995, to ensure that perpetrators
10 have had an opportunity to appeal a substantiated finding of abuse or
11 neglect; except that the department may consider substantiated
12 incidents prior to that date, if the department, in its judgment,
13 determines that the individual poses a risk of harm to children in a
14 facility. In cases involving incidents substantiated prior to June 29,
15 1995, the department shall offer the individual an opportunity for a
16 hearing to contest its action restricting the individual from employment
17 at a facility.

18
19 15. (New section) In the case of a facility located outside the State
20 serving children who are residents of the State, the administrator of
21 the facility shall ensure that an applicant or staff member meets all
22 applicable laws and regulations in that state governing criminal history
23 record background and child abuse record information checks that may
24 be required as a condition of employment. In the event that criminal
25 history record background and child abuse record information checks
26 are not mandated, the administrator of the facility shall require that the
27 applicant or staff member make a voluntary disclosure of any criminal
28 conviction. The results of the disclosure shall be made available to the
29 department, so the department can determine the suitability of the
30 individual for employment at the facility during the time children who
31 are residents of the State are placed in the facility.

32
33 16. (New section) The department shall be responsible for the cost
34 of processing and funding all criminal history record background and
35 child abuse record information checks required pursuant to sections 6
36 through 16 of P.L. , c. (C.) (pending before the Legislature as
37 this bill). The department shall also be responsible for paying the cost
38 of obtaining the fingerprints or other identifier authorized by the
39 Division of State Police, unless that service is available at no cost to
40 the employee or individual seeking employment.

41
42 17. Section 23 of P.L.1982, c.77 (C.2A:4A-42) is amended to read
43 as follows:

44 23. Predispositional evaluation. a. Before making a disposition, the
45 court may refer the juvenile to an appropriate individual, agency or
46 institution for examination and evaluation.

1 b. In arriving at a disposition, the court may also consult with such
2 individuals and agencies as may be appropriate to the juvenile's
3 situation, including the county probation division, the Division of
4 [Youth and Family] Child Protection and Permanency or an alternate
5 entity within the Department of Human Services designated by the
6 Commissioner of Human Services, the Juvenile Justice Commission
7 established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170),
8 the county youth services commission, school personnel, clergy, law
9 enforcement authorities, family members and other interested and
10 knowledgeable parties. In so doing, the court may convene a
11 predispositional conference to discuss and recommend disposition.

12 c. The predisposition report ordered pursuant to the Rules of Court
13 may include a statement by the victim of the offense for which the
14 juvenile has been adjudicated delinquent or by the nearest relative of
15 a homicide victim. The statement may include the nature and extent of
16 any physical harm or psychological or emotional harm or trauma
17 suffered by the victim, the extent of any loss to include loss of earnings
18 or ability to work suffered by the victim and the effect of the crime
19 upon the victim's family. The probation division shall notify the victim
20 or nearest relative of a homicide victim of his right to make a
21 statement for inclusion in the predisposition report if the victim or
22 relative so desires. Any statement shall be made within 20 days of
23 notification by the probation division. The report shall further include
24 information on the financial resources of the juvenile. This
25 information shall be made available on request to the Victims of Crime
26 Compensation Board established pursuant to section 3 of P.L.1971,
27 c.317 (C.52:4B-3) or to any officer authorized under section 3 of
28 P.L.1979, c.396 (C.2C:46-4) to collect payment of an assessment,
29 restitution or fine. Any predisposition report prepared pursuant to this
30 section shall include an analysis of the circumstances attending the
31 commission of the act, the impact of the offense on the community, the
32 offender's history of delinquency or criminality, family situation,
33 financial resources, the financial resources of the juvenile's parent or
34 guardian, and information concerning the parent or guardian's exercise
35 of supervision and control relevant to commission of the act.

36 Information concerning financial resources included in the report
37 shall be made available to any officer authorized to collect payment on
38 any assessment, restitution or fine.

39 (cf: P.L.2001, c.408, s.2)

40

41 18. Section 24 of P.L.1982, c.77 (C.2A:4A-43) is amended to read
42 as follows:

43 24. Disposition of delinquency cases. a. In determining the
44 appropriate disposition for a juvenile adjudicated delinquent the court
45 shall weigh the following factors:

46 (1) The nature and circumstances of the offense;

1 (2) The degree of injury to persons or damage to property caused
2 by the juvenile's offense;

3 (3) The juvenile's age, previous record, prior social service
4 received and out-of-home placement history;

5 (4) Whether the disposition supports family strength, responsibility
6 and unity and the well-being and physical safety of the juvenile;

7 (5) Whether the disposition provides for reasonable participation
8 by the child's parent, guardian, or custodian, provided, however, that
9 the failure of a parent or parents to cooperate in the disposition shall
10 not be weighed against the juvenile in arriving at an appropriate
11 disposition;

12 (6) Whether the disposition recognizes and treats the unique
13 physical, psychological and social characteristics and needs of the
14 child;

15 (7) Whether the disposition contributes to the developmental needs
16 of the child, including the academic and social needs of the child where
17 the child has mental retardation or learning disabilities;

18 (8) Any other circumstances related to the offense and the
19 juvenile's social history as deemed appropriate by the court;

20 (9) The impact of the offense on the victim or victims;

21 (10) The impact of the offense on the community; and

22 (11) The threat to the safety of the public or any individual posed
23 by the child.

24 b. If a juvenile is adjudged delinquent, and except to the extent that
25 an additional specific disposition is required pursuant to subsection e.
26 or f. of this section, the court may order incarceration pursuant to
27 section 25 of P.L.1982, c.77 (C.2A:4A-44) or any one or more of the
28 following dispositions:

29 (1) Adjourn formal entry of disposition of the case for a period not
30 to exceed 12 months for the purpose of determining whether the
31 juvenile makes a satisfactory adjustment, and if during the period of
32 continuance the juvenile makes such an adjustment, dismiss the
33 complaint; provided that if the court adjourns formal entry of
34 disposition of delinquency for a violation of an offense defined in
35 chapter 35 or 36 of Title 2C of the New Jersey Statutes the court shall
36 assess the mandatory penalty set forth in N.J.S.2C:35-15 but may
37 waive imposition of the penalty set forth in N.J.S.2C:35-16 for
38 juveniles adjudicated delinquent;

39 (2) Release the juvenile to the supervision of the juvenile's parent
40 or guardian;

41 (3) Place the juvenile on probation to the chief probation officer of
42 the county or to any other suitable person who agrees to accept the
43 duty of probation supervision for a period not to exceed three years
44 upon such written conditions as the court deems will aid rehabilitation
45 of the juvenile;

46 (4) Transfer custody of the juvenile to any relative or other person

1 determined by the court to be qualified to care for the juvenile;

2 (5) Place the juvenile under the care of the Department of Human
3 Services [under the responsibility of the Division of Youth and Family
4 Services] so that the Commissioner of Human Services may designate
5 a division or organizational unit in the department pursuant to
6 P.L.1951, c.138 (C.30:4C-1 et seq.) for the purpose of providing
7 services in or out of the home. Within 14 days, unless for good cause
8 shown, but not later than 30 days, the Department of Human Services
9 shall submit to the court a service plan, which shall be presumed valid,
10 detailing the specifics of any disposition order. The plan shall be
11 developed within the limits of fiscal and other resources available to
12 the department. If the court determines that the service plan is
13 inappropriate, given existing resources, the department may request a
14 hearing on that determination;

15 (6) Place the juvenile under the care and custody of the
16 Commissioner of [the Department of] Human Services for the
17 purpose of receiving the services of the Division of Developmental
18 Disabilities of that department, provided that the juvenile has been
19 determined to be eligible for those services under P.L.1965, c.59, s.16
20 (C.30:4-25.4);

21 (7) Commit the juvenile, pursuant to applicable laws and the Rules
22 of Court governing civil commitment, to the Department of Human
23 Services under the responsibility of the Division of Mental Health
24 Services for the purpose of placement in a suitable public or private
25 hospital or other residential facility for the treatment of persons who
26 are mentally ill, on the ground that the juvenile is in need of
27 involuntary commitment;

28 (8) Fine the juvenile an amount not to exceed the maximum
29 provided by law for such a crime or offense if committed by an adult
30 and which is consistent with the juvenile's income or ability to pay and
31 financial responsibility to the juvenile's family, provided that the fine
32 is specially adapted to the rehabilitation of the juvenile or to the
33 deterrence of the type of crime or offense. If the fine is not paid due
34 to financial limitations, the fine may be satisfied by requiring the
35 juvenile to submit to any other appropriate disposition provided for in
36 this section;

37 (9) Order the juvenile to make restitution to a person or entity who
38 has suffered loss resulting from personal injuries or damage to
39 property as a result of the offense for which the juvenile has been
40 adjudicated delinquent. The court may determine the reasonable
41 amount, terms and conditions of restitution. If the juvenile
42 participated in the offense with other persons, the participants shall be
43 jointly and severally responsible for the payment of restitution. The
44 court shall not require a juvenile to make full or partial restitution if
45 the juvenile reasonably satisfies the court that the juvenile does not
46 have the means to make restitution and could not reasonably acquire

1 the means to pay restitution;

2 (10) Order that the juvenile perform community services under the
3 supervision of a probation division or other agency or individual
4 deemed appropriate by the court. Such services shall be compulsory
5 and reasonable in terms of nature and duration. Such services may be
6 performed without compensation, provided that any money earned by
7 the juvenile from the performance of community services may be
8 applied towards any payment of restitution or fine which the court has
9 ordered the juvenile to pay;

10 (11) Order that the juvenile participate in work programs which are
11 designed to provide job skills and specific employment training to
12 enhance the employability of job participants. Such programs may be
13 without compensation, provided that any money earned by the juvenile
14 from participation in a work program may be applied towards any
15 payment of restitution or fine which the court has ordered the juvenile
16 to pay;

17 (12) Order that the juvenile participate in programs emphasizing
18 self-reliance, such as intensive outdoor programs teaching survival
19 skills, including but not limited to camping, hiking and other
20 appropriate activities;

21 (13) Order that the juvenile participate in a program of academic
22 or vocational education or counseling, such as a youth service bureau,
23 requiring attendance at sessions designed to afford access to
24 opportunities for normal growth and development. This may require
25 attendance after school, evenings and weekends;

26 (14) Place the juvenile in a suitable residential or nonresidential
27 program for the treatment of alcohol or narcotic abuse, provided that
28 the juvenile has been determined to be in need of such services;

29 (15) Order the parent or guardian of the juvenile to participate in
30 appropriate programs or services when the court has found either that
31 such person's omission or conduct was a significant contributing factor
32 towards the commission of the delinquent act, or, under its authority
33 to enforce litigant's rights, that such person's omission or conduct has
34 been a significant contributing factor towards the ineffective
35 implementation of a court order previously entered in relation to the
36 juvenile;

37 (16) (a) Place the juvenile in a nonresidential program operated by
38 a public or private agency, providing intensive services to juveniles for
39 specified hours, which may include education, counseling to the
40 juvenile and the juvenile's family if appropriate, vocational training,
41 employment counseling, work or other services;

42 (b) Place the juvenile under the custody of the Juvenile Justice
43 Commission established pursuant to section 2 of P.L.1995, c.284
44 (C.52:17B-170) for placement with any private group home or private
45 residential facility with which the commission has entered into a
46 purchase of service contract;

1 (17) Instead of or in addition to any disposition made according to
2 this section, the court may postpone, suspend, or revoke for a period
3 not to exceed two years the driver's license, registration certificate, or
4 both of any juvenile who used a motor vehicle in the course of
5 committing an act for which the juvenile was adjudicated delinquent.
6 In imposing this disposition and in deciding the duration of the
7 postponement, suspension, or revocation, the court shall consider the
8 severity of the delinquent act and the potential effect of the loss of
9 driving privileges on the juvenile's ability to be rehabilitated. Any
10 postponement, suspension, or revocation shall be imposed
11 consecutively with any custodial commitment;

12 (18) Order that the juvenile satisfy any other conditions reasonably
13 related to the rehabilitation of the juvenile;

14 (19) Order a parent or guardian who has failed or neglected to
15 exercise reasonable supervision or control of a juvenile who has been
16 adjudicated delinquent to make restitution to any person or entity who
17 has suffered a loss as a result of that offense. The court may
18 determine the reasonable amount, terms and conditions of restitution;
19 or

20 (20) Place the juvenile, if eligible, in an appropriate juvenile
21 offender program established pursuant to P.L.1997, c.81 (C.30:8-61
22 et al.).

23 c. (1) Except as otherwise provided in subsections e. and f. of this
24 section, if the county in which the juvenile has been adjudicated
25 delinquent has a juvenile detention facility meeting the physical and
26 program standards established pursuant to this subsection by the
27 Juvenile Justice Commission, the court may, in addition to any of the
28 dispositions not involving placement out of the home enumerated in
29 this section, incarcerate the juvenile in the youth detention facility in
30 that county for a term not to exceed 60 consecutive days. Counties
31 which do not operate their own juvenile detention facilities may
32 contract for the use of approved commitment programs with counties
33 with which they have established agreements for the use of
34 pre-disposition juvenile detention facilities. The Juvenile Justice
35 Commission shall promulgate such rules and regulations from time to
36 time as deemed necessary to establish minimum physical facility and
37 program standards for the use of juvenile detention facilities pursuant
38 to this subsection.

39 (2) No juvenile may be incarcerated in any county detention facility
40 unless the county has entered into an agreement with the Juvenile
41 Justice Commission concerning the use of the facility for sentenced
42 juveniles. Upon agreement with the county, the Juvenile Justice
43 Commission shall certify detention facilities which may receive
44 juveniles sentenced pursuant to this subsection and shall specify the
45 capacity of the facility that may be made available to receive such
46 juveniles; provided, however, that in no event shall the number of

1 juveniles incarcerated pursuant to this subsection exceed 50% of the
2 maximum capacity of the facility.

3 (3) The court may fix a term of incarceration under this subsection
4 where:

5 (a) The act for which the juvenile was adjudicated delinquent, if
6 committed by an adult, would have constituted a crime or repetitive
7 disorderly persons offense;

8 (b) Incarceration of the juvenile is consistent with the goals of
9 public safety, accountability and rehabilitation and the court is clearly
10 convinced that the aggravating factors substantially outweigh the
11 mitigating factors as set forth in section 25 of P.L.1982, c.77
12 (C.2A:4A-44); and

13 (c) The detention facility has been certified for admission of
14 adjudicated juveniles pursuant to paragraph (2).

15 (4) If as a result of incarceration of adjudicated juveniles pursuant
16 to this subsection, a county is required to transport a predisposition
17 juvenile to a juvenile detention facility in another county, the costs of
18 such transportation shall be borne by the Juvenile Justice Commission.

19 d. Whenever the court imposes a disposition upon an adjudicated
20 delinquent which requires the juvenile to perform a community service,
21 restitution, or to participate in any other program provided for in this
22 section other than subsection c., the duration of the juvenile's
23 mandatory participation in such alternative programs shall extend for
24 a period consistent with the program goal for the juvenile and shall in
25 no event exceed one year beyond the maximum duration permissible
26 for the delinquent if the juvenile had been committed to a term of
27 incarceration.

28 e. In addition to any disposition the court may impose pursuant to
29 this section or section 25 of P.L.1982, c.77 (C.2A:4A-44), the
30 following orders shall be included in dispositions of the adjudications
31 set forth below:

32 (1) An order of incarceration for a term of the duration authorized
33 pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44)
34 or an order to perform community service pursuant to paragraph (10)
35 of subsection b. of this section for a period of at least 60 days, if the
36 juvenile has been adjudicated delinquent for an act which, if committed
37 by an adult, would constitute the crime of theft of a motor vehicle, or
38 the crime of unlawful taking of a motor vehicle in violation of
39 subsection c. of N.J.S.2C:20-10, or the third degree crime of eluding
40 in violation of subsection b. of N.J.S.2C:29-2;

41 (2) An order of incarceration for a term of the duration authorized
42 pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44)
43 which shall include a minimum term of 60 days during which the
44 juvenile shall be ineligible for parole, if the juvenile has been
45 adjudicated delinquent for an act which, if committed by an adult,
46 would constitute the crime of aggravated assault in violation of

1 paragraph (6) of subsection b. of N.J.S.2C:12-1, the second degree
2 crime of eluding in violation of subsection b. of N.J.S.2C:29-2, or
3 theft of a motor vehicle, in a case in which the juvenile has previously
4 been adjudicated delinquent for an act, which if committed by an adult,
5 would constitute unlawful taking of a motor vehicle or theft of a motor
6 vehicle;

7 (3) An order to perform community service pursuant to paragraph
8 (10) of subsection b. of this section for a period of at least 30 days, if
9 the juvenile has been adjudicated delinquent for an act which, if
10 committed by an adult, would constitute the fourth degree crime of
11 unlawful taking of a motor vehicle in violation of subsection b. of
12 N.J.S.2C:20-10;

13 (4) An order of incarceration for a term of the duration authorized
14 pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44)
15 which shall include a minimum term of 30 days during which the
16 juvenile shall be ineligible for parole, if the juvenile has been
17 adjudicated delinquent for an act which, if committed by an adult,
18 would constitute the crime of unlawful taking of a motor vehicle in
19 violation of N.J.S.2C:20-10 or the third degree crime of eluding in
20 violation of subsection b. of N.J.S.2C:29-2, and if the juvenile has
21 previously been adjudicated delinquent for an act which, if committed
22 by an adult, would constitute either theft of a motor vehicle, the
23 unlawful taking of a motor vehicle or eluding.

24 f. (1) The minimum terms of incarceration required pursuant to
25 subsection e. of this section shall be imposed regardless of the weight
26 or balance of factors set forth in this section or in section 25 of
27 P.L.1982, c.77 (C.2A:4A-44), but the weight and balance of those
28 factors shall determine the length of the term of incarceration
29 appropriate, if any, beyond any mandatory minimum term required
30 pursuant to subsection e. of this section.

31 (2) When a court in a county that does not have a juvenile
32 detention facility or a contractual relationship permitting incarceration
33 pursuant to subsection c. of this section is required to impose a term
34 of incarceration pursuant to subsection e. of this section, the court
35 may, subject to limitations on commitment to State correctional
36 facilities of juveniles who are under the age of 11 or developmentally
37 disabled, set a term of incarceration consistent with subsection c.
38 which shall be served in a State correctional facility. When a juvenile
39 who because of age or developmental disability cannot be committed
40 to a State correctional facility or cannot be incarcerated in a county
41 facility, the court shall order a disposition appropriate as an alternative
42 to any incarceration required pursuant to subsection e.

43 (3) For purposes of subsection e. of this section, in the event that
44 a "boot camp" program for juvenile offenders should be developed and
45 is available, a term of commitment to such a program shall be
46 considered a term of incarceration.

1 g. Whenever the court imposes a disposition upon an adjudicated
2 delinquent which requires the juvenile to perform a community service,
3 restitution, or to participate in any other program provided for in this
4 section, the order shall include provisions which provide balanced
5 attention to the protection of the community, accountability for
6 offenses committed, fostering interaction and dialogue between the
7 offender, victim and community and the development of competencies
8 to enable the child to become a responsible and productive member of
9 the community.

10 (cf: P.L.2001, c.408, c.3)

11
12 19. Section 10 of P.L.1982, c.80 (C.2A:4A-85) is amended to read
13 as follows:

14 10. Alcoholic, drug-dependent parent. a. When a petition is filed
15 and as a result of any information supplied on the family situation by
16 the crisis intervention unit, court intake services has reason to believe
17 that the parent or guardian is an alcoholic, as defined by P.L.1975,
18 c.305 (C.26:2B-8), or a drug-dependent person, as defined by section
19 2 of the "New Jersey Controlled Dangerous Substances Act,"
20 P.L.1970, c.226 (C.24:21-2), intake services shall state the basis for
21 this determination and provide recommendations to the court.

22 b. When, as a result of any information supplied by the crisis
23 intervention unit, court intake services has reason to believe that a
24 juvenile is an "abused or neglected child," as defined in P.L.1974,
25 c.119 (C.9:6-8.21), they shall handle the case pursuant to the
26 procedure set forth in that law. The Division of [Youth and Family
27 Services] Child Protection and Permanency shall, upon disposition of
28 any case originated pursuant to this subsection, notify court intake
29 services as to the nature of the disposition.

30 c. (1) When, as a result of any information supplied with regard to
31 any juvenile by the crisis intervention unit or from any other source,
32 court intake services has reason to believe that the juvenile may have
33 an auditory or vision problem, intake services shall state the basis for
34 this determination and provide recommendations to the court. Before
35 arriving at its determination, intake services may request the court to
36 order any appropriate school medical records of the juvenile. On the
37 basis of this recommendation or on its own motion, the court may
38 order any juvenile concerning whom a complaint is filed to be
39 examined by a physician, optometrist, audiologist, or speech language
40 pathologist.

41 (2) Any examination shall be made and the findings submitted to
42 the court within 30 days of the date the order is entered, but this
43 period may be extended by the court for good cause.

44 (3) Copies of any reports of findings submitted to the court shall
45 be available to counsel for all parties prior to an adjudication of

1 whether or not the juvenile is delinquent.

2 (cf: P.L.1985, c.437, s.1)

3

4 20. Section 14 of P.L.1982, c.80 (C.2A:4A-89) is amended to read
5 as follows:

6 14. Out of home placement hearing. When intake has filed with the
7 court a petition for out of home placement, the court shall, within 24
8 hours, conduct a hearing on the petition. The court shall notify the
9 parents, the juvenile and his counsel and, if indigent, have counsel
10 appointed by the court. The hearing shall be conducted in accordance
11 with the Rules of Court and shall be attended by the parents, the
12 juvenile, and when requested by the court, a representative of the
13 [Division of Youth and Family Services] Department of Human
14 Services designated by the commissioner. The following procedure
15 shall be followed for the hearing:

16 a. The court shall hold the hearing to consider the petition and may
17 approve or disapprove the temporary out of home placement. The
18 court may approve the temporary out of home placement if either of
19 the following factors exists:

20 (1) A serious conflict or other problem between the parent and the
21 juvenile which cannot be resolved by delivery of services to the family
22 during continued placement of the juvenile in the parental home; or

23 (2) The physical safety and well-being of the juvenile would be
24 threatened if the juvenile were placed in the parental home.

25 b. If the court disapproves a petition for an out of home placement,
26 a written statement of reasons shall be filed, and the court shall order
27 that the juvenile is to remain at or return to the parental home.

28 c. Temporary out of home placement shall continue until otherwise
29 provided by the court. The order approving the temporary out of
30 home placement shall direct the [Division of Youth and Family
31 Services] Department of Human Services, through a division or
32 organizational unit designated by the commissioner, or other service
33 or agency to submit a family service plan that is designed to resolve
34 the family crisis consistent with the well-being and physical safety of
35 the juvenile. The court shall direct such [division,] department,
36 service or agency to make recommendations as to which agency or
37 person shall have physical custody of the child, the extent of the
38 parental powers to be awarded to such agency or person and parental
39 visitation rights.

40 d. Within 14 days of the date of the order approving the petition
41 for temporary out of home placement is entered, unless for good cause
42 shown, but no later than 30 days, the [division] department, service
43 or agency shall submit to the court a family service plan, which shall
44 be presumed valid, detailing the specifics of the court order. The plan
45 shall be developed within the limits of fiscal and other resources
46 available to the [division] department, service or agency. If the court

1 determines that the service plan is inappropriate, given existing
2 resources, the [division] department, service or agency may request
3 a hearing on that determination.

4 e. At the hearing held to consider the family service plan presented
5 by the [division] department, or other service or agency, the court
6 shall consider all such recommendations included therein. The court,
7 consistent with this section, may modify such plan and shall make its
8 dispositional order for the juvenile. The court's dispositional order
9 shall specify the responsibility of the Department of Human Services
10 or other service with respect to the juvenile who shall be placed, those
11 parental powers temporarily ordered to the department or service and
12 parental visitation rights. Where placement cannot be immediately
13 made, the [division] department, or other service or agency shall
14 report to the court every 14 days on the status of the placement and
15 progress toward implementation of the plan.

16 (cf: P.L.1982, c.80, s.14)

17
18 21. N.J.S.2C:12-1 is amended to read as follows:

19 2C:12-1. Assault. a. Simple assault. A person is guilty of assault
20 if he:

21 (1) Attempts to cause or purposely, knowingly or recklessly causes
22 bodily injury to another; or

23 (2) Negligently causes bodily injury to another with a deadly
24 weapon; or

25 (3) Attempts by physical menace to put another in fear of imminent
26 serious bodily injury.

27 Simple assault is a disorderly persons offense unless committed in
28 a fight or scuffle entered into by mutual consent, in which case it is a
29 petty disorderly persons offense.

30 b. Aggravated assault. A person is guilty of aggravated assault if
31 he:

32 (1) Attempts to cause serious bodily injury to another, or causes
33 such injury purposely or knowingly or under circumstances
34 manifesting extreme indifference to the value of human life recklessly
35 causes such injury; or

36 (2) Attempts to cause or purposely or knowingly causes bodily
37 injury to another with a deadly weapon; or

38 (3) Recklessly causes bodily injury to another with a deadly
39 weapon; or

40 (4) Knowingly under circumstances manifesting extreme
41 indifference to the value of human life points a firearm, as defined in
42 section 2C:39-1f., at or in the direction of another, whether or not the
43 actor believes it to be loaded; or

44 (5) Commits a simple assault as defined in subsection a. (1), (2) or
45 (3) of this section upon:

46 (a) Any law enforcement officer acting in the performance of his

- 1 duties while in uniform or exhibiting evidence of his authority or
2 because of his status as a law enforcement officer; or
- 3 (b) Any paid or volunteer fireman acting in the performance of his
4 duties while in uniform or otherwise clearly identifiable as being
5 engaged in the performance of the duties of a fireman; or
- 6 (c) Any person engaged in emergency first-aid or medical services
7 acting in the performance of his duties while in uniform or otherwise
8 clearly identifiable as being engaged in the performance of emergency
9 first-aid or medical services; or
- 10 (d) Any school board member, school administrator, teacher,
11 school bus driver or other employee of a school board while clearly
12 identifiable as being engaged in the performance of his duties or
13 because of his status as a member or employee of a school board or
14 any school bus driver employed by an operator under contract to a
15 school board while clearly identifiable as being engaged in the
16 performance of his duties or because of his status as a school bus
17 driver; or
- 18 (e) Any employee of the **[Division of Youth and Family]**
19 Department of Human Services while clearly identifiable as being
20 engaged in the performance of his duties or because of his status as an
21 employee of the **[division]** department; or
- 22 (f) Any justice of the Supreme Court, judge of the Superior Court,
23 judge of the Tax Court or municipal judge while clearly identifiable as
24 being engaged in the performance of judicial duties or because of his
25 status as a member of the judiciary; or
- 26 (g) Any operator of a motorbus or the operator's supervisor or any
27 employee of a rail passenger service while clearly identifiable as being
28 engaged in the performance of his duties or because of his status as an
29 operator of a motorbus or as the operator's supervisor or as an
30 employee of a rail passenger service; or
- 31 (6) Causes bodily injury to another person while fleeing or
32 attempting to elude a law enforcement officer in violation of
33 subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in
34 violation of subsection c. of N.J.S.2C:20-10. Notwithstanding any
35 other provision of law to the contrary, a person shall be strictly liable
36 for a violation of this subsection upon proof of a violation of
37 subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in
38 violation of subsection c. of N.J.S.2C:20-10 which resulted in bodily
39 injury to another person; or
- 40 (7) Attempts to cause significant bodily injury to another or causes
41 significant bodily injury purposely or knowingly or, under
42 circumstances manifesting extreme indifference to the value of human
43 life recklessly causes such significant bodily injury; or
- 44 (8) Causes bodily injury by knowingly or purposely starting a fire
45 or causing an explosion in violation of N.J.S.2C:17-1 which results in
46 bodily injury to any emergency services personnel involved in fire

1 suppression activities, rendering emergency medical services resulting
2 from the fire or explosion or rescue operations, or rendering any
3 necessary assistance at the scene of the fire or explosion, including any
4 bodily injury sustained while responding to the scene of a reported fire
5 or explosion. For purposes of this subsection, "emergency services
6 personnel" shall include, but not be limited to, any paid or volunteer
7 fireman, any person engaged in emergency first-aid or medical services
8 and any law enforcement officer. Notwithstanding any other provision
9 of law to the contrary, a person shall be strictly liable for a violation
10 of this paragraph upon proof of a violation of N.J.S.2C:17-1 which
11 resulted in bodily injury to any emergency services personnel; or

12 (9) Knowingly, under circumstances manifesting extreme
13 indifference to the value of human life, points or displays a firearm, as
14 defined in subsection f. of N.J.S.2C:39-1, at or in the direction of a
15 law enforcement officer; or

16 (10) Knowingly points, displays or uses an imitation firearm, as
17 defined in subsection f. of N.J.S.2C:39-1, at or in the direction of a
18 law enforcement officer with the purpose to intimidate, threaten or
19 attempt to put the officer in fear of bodily injury or for any unlawful
20 purpose; or

21 (11) Uses or activates a laser sighting system or device, or a
22 system or device which, in the manner used, would cause a reasonable
23 person to believe that it is a laser sighting system or device, against a
24 law enforcement officer acting in the performance of his duties while
25 in uniform or exhibiting evidence of his authority. As used in this
26 paragraph, "laser sighting system or device" means any system or
27 device that is integrated with or affixed to a firearm and emits a laser
28 light beam that is used to assist in the sight alignment or aiming of the
29 firearm.

30 Aggravated assault under subsections b. (1) and b. (6) is a crime of
31 the second degree; under subsections b. (2), b. (7), b. (9) and b. (10)
32 is a crime of the third degree; under subsections b. (3) and b. (4) is a
33 crime of the fourth degree; and under subsection b. (5) is a crime of
34 the third degree if the victim suffers bodily injury, otherwise it is a
35 crime of the fourth degree. Aggravated assault under subsection b.(8)
36 is a crime of the third degree if the victim suffers bodily injury; if the
37 victim suffers significant bodily injury or serious bodily injury it is a
38 crime of the second degree. Aggravated assault under subsection
39 b.(11) is a crime of the third degree.

40 c. (1) A person is guilty of assault by auto or vessel when the
41 person drives a vehicle or vessel recklessly and causes either serious
42 bodily injury or bodily injury to another. Assault by auto or vessel is
43 a crime of the fourth degree if serious bodily injury results and is a
44 disorderly persons offense if bodily injury results.

45 (2) Assault by auto or vessel is a crime of the third degree if the
46 person drives the vehicle while in violation of R.S.39:4-50 or section

1 2 of P.L.1981, c.512 (C.39:4-50.4a) and serious bodily injury results
2 and is a crime of the fourth degree if the person drives the vehicle
3 while in violation of R.S.39:4-50 or section 2 of P.L.1981, c.512
4 (C.39:4-50.4a) and bodily injury results.

5 (3) Assault by auto or vessel is a crime of the second degree if
6 serious bodily injury results from the defendant operating the auto or
7 vessel while in violation of R.S.39:4-50 or section 2 of P.L.1981,
8 c.512 (C.39:4-50.4a) while:

9 (a) on any school property used for school purposes which is
10 owned by or leased to any elementary or secondary school or school
11 board, or within 1,000 feet of such school property;

12 (b) driving through a school crossing as defined in R.S.39:1-1 if
13 the municipality, by ordinance or resolution, has designated the school
14 crossing as such; or

15 (c) driving through a school crossing as defined in R.S.39:1-1
16 knowing that juveniles are present if the municipality has not
17 designated the school crossing as such by ordinance or resolution.

18 Assault by auto or vessel is a crime of the third degree if bodily
19 injury results from the defendant operating the auto or vessel in
20 violation of this paragraph.

21 A map or true copy of a map depicting the location and boundaries
22 of the area on or within 1,000 feet of any property used for school
23 purposes which is owned by or leased to any elementary or secondary
24 school or school board produced pursuant to section 1 of P.L.1987,
25 c.101 (C.2C:35-7) may be used in a prosecution under subparagraph
26 (a) of paragraph (3) of this section.

27 It shall be no defense to a prosecution for a violation of
28 subparagraph (a) or (b) of paragraph (3) of this subsection that the
29 defendant was unaware that the prohibited conduct took place while
30 on or within 1,000 feet of any school property or while driving
31 through a school crossing. Nor shall it be a defense to a prosecution
32 under subparagraph (a) or (b) of paragraph (3) of this subsection that
33 no juveniles were present on the school property or crossing zone at
34 the time of the offense or that the school was not in session.

35 As used in this section, "vessel" means a means of conveyance for
36 travel on water and propelled otherwise than by muscular power.

37 d. A person who is employed by a facility as defined in section 2
38 of P.L.1977, c.239 (C.52:27G-2) who commits a simple assault as
39 defined in paragraph (1) or (2) of subsection a. of this section upon an
40 institutionalized elderly person as defined in section 2 of P.L.1977,
41 c.239 (C.52:27G-2) is guilty of a crime of the fourth degree.

42 e. (Deleted by amendment, P.L.2001, c.443).

43 f. A person who commits a simple assault as defined in paragraph
44 (1), (2) or (3) of subsection a. of this section in the presence of a child
45 under 16 years of age at a school or community sponsored youth
46 sports event is guilty of a crime of the fourth degree. The defendant

1 shall be strictly liable upon proof that the offense occurred, in fact, in
2 the presence of a child under 16 years of age. It shall not be a defense
3 that the defendant did not know that the child was present or
4 reasonably believed that the child was 16 years of age or older. The
5 provisions of this subsection shall not be construed to create any
6 liability on the part of a participant in a youth sports event or to
7 abrogate any immunity or defense available to a participant in a youth
8 sports event. As used in this act, "school or community sponsored
9 youth sports event" means a competition, practice or instructional
10 event involving one or more interscholastic sports teams or youth
11 sports teams organized pursuant to a nonprofit or similar charter or
12 which are member teams in a youth league organized by or affiliated
13 with a county or municipal recreation department and shall not include
14 collegiate, semi-professional or professional sporting events.
15 (cf: P.L.2002, c.53, s.1)

16

17 22. N.J.S.2C:13-1 is amended to read as follows:

18 2C:13-1. Kidnapping. a. Holding for ransom, reward or as a
19 hostage. A person is guilty of kidnapping if he unlawfully removes
20 another from the place where he is found or if he unlawfully confines
21 another with the purpose of holding that person for ransom or reward
22 or as a shield or hostage.

23 b. Holding for other purposes. A person is guilty of kidnapping if
24 he unlawfully removes another from his place of residence or business,
25 or a substantial distance from the vicinity where he is found, or if he
26 unlawfully confines another for a substantial period, with any of the
27 following purposes:

28 (1) To facilitate commission of any crime or flight thereafter;

29 (2) To inflict bodily injury on or to terrorize the victim or another;

30 (3) To interfere with the performance of any governmental or
31 political function; or

32 (4) To permanently deprive a parent, guardian or other lawful
33 custodian of custody of the victim.

34 c. Grading of kidnapping. (1) Except as provided in paragraph (2)
35 of this subsection, kidnapping is a crime of the first degree and upon
36 conviction thereof, a person may, notwithstanding the provisions of
37 paragraph (1) of subsection a. of N.J.S.2C:43-6, be sentenced to an
38 ordinary term of imprisonment between 15 and 30 years. If the actor
39 releases the victim unharmed and in a safe place prior to apprehension,
40 it is a crime of the second degree.

41 (2) Kidnapping is a crime of the first degree and upon conviction
42 thereof, an actor shall be sentenced to a term of imprisonment by the
43 court, if the victim of the kidnapping is less than 16 years of age and
44 if during the kidnapping:

45 (a) A crime under N.J.S.2C:14-2 or subsection a. of N.J.S.2C:14-3
46 is committed against the victim;

1 (b) A crime under subsection b. of N.J.S.2C:24-4 is committed
2 against the victim; or

3 (c) The actor sells or delivers the victim to another person for
4 pecuniary gain other than in circumstances which lead to the return of
5 the victim to a parent, guardian or other person responsible for the
6 general supervision of the victim.

7 Notwithstanding the provisions of paragraph (1) of subsection a. of
8 N.J.S.2C:43-6, the term of imprisonment imposed under this
9 paragraph shall be either a term of 25 years during which the actor
10 shall not be eligible for parole, or a specific term between 25 years and
11 life imprisonment, of which the actor shall serve 25 years before being
12 eligible for parole; provided, however, that the crime of kidnapping
13 under this paragraph and underlying aggravating crimes listed in
14 subparagraph (a), (b) or (c) of this paragraph shall merge for purposes
15 of sentencing. If the actor is convicted of the criminal homicide of a
16 victim of a kidnapping under the provisions of chapter 11, any
17 sentence imposed under provisions of this paragraph shall be served
18 consecutively to any sentence imposed pursuant to the provisions of
19 chapter 11.

20 d. "Unlawful" removal or confinement. A removal or confinement
21 is unlawful within the meaning of this section and of sections 2C:13-2
22 and 2C:13-3, if it is accomplished by force, threat or deception, or, in
23 the case of a person who is under the age of 14 or is incompetent, if
24 it is accomplished without the consent of a parent, guardian or other
25 person responsible for general supervision of his welfare.

26 e. It is an affirmative defense to a prosecution under paragraph (4)
27 of subsection b. of this section, which must be proved by clear and
28 convincing evidence, that:

29 (1) The actor reasonably believed that the action was necessary to
30 preserve the victim from imminent danger to his welfare. However, no
31 defense shall be available pursuant to this subsection if the actor does
32 not, as soon as reasonably practicable but in no event more than 24
33 hours after taking a victim under his protection, give notice of the
34 victim's location to the police department of the municipality where the
35 victim resided, the office of the county prosecutor in the county where
36 the victim resided, or the Division of **[Youth and Family Services]**
37 Child Protection and Permanency in the Department of Human
38 Services;

39 (2) The actor reasonably believed that the taking or detaining of
40 the victim was consented to by a parent, or by an authorized State
41 agency; or

42 (3) The victim, being at the time of the taking or concealment not
43 less than 14 years old, was taken away at his own volition by his
44 parent and without purpose to commit a criminal offense with or
45 against the victim.

46 f. It is an affirmative defense to a prosecution under paragraph (4)

1 of subsection b. of this section that a parent having the right of
2 custody reasonably believed he was fleeing from imminent physical
3 danger from the other parent, provided that the parent having custody,
4 as soon as reasonably practicable:

5 (1) Gives notice of the victim's location to the police department
6 of the municipality where the victim resided, the office of the county
7 prosecutor in the county where the victim resided, or the Division of
8 **[Youth and Family Services]** Child Protection and Permanency in the
9 Department of Human Services; or

10 (2) Commences an action affecting custody in an appropriate court.

11 g. As used in subsections e. and f. of this section, "parent" means
12 a parent, guardian or other lawful custodian of a victim.

13 (cf: P.L.1999, c.190, s.1)

14

15 23. N.J.S.2C:13-4 is amended to read as follows:

16 2C:13-4. Interference with custody. a. Custody of children. A
17 person, including a parent, guardian or other lawful custodian, is guilty
18 of interference with custody if he:

19 (1) Takes or detains a minor child with the purpose of concealing
20 the minor child and thereby depriving the child's other parent of
21 custody or parenting time with the minor child; or

22 (2) After being served with process or having actual knowledge of
23 an action affecting marriage or custody but prior to the issuance of a
24 temporary or final order determining custody and parenting time rights
25 to a minor child, takes, detains, entices or conceals the child within or
26 outside the State for the purpose of depriving the child's other parent
27 of custody or parenting time, or to evade the jurisdiction of the courts
28 of this State;

29 (3) After being served with process or having actual knowledge of
30 an action affecting the protective services needs of a child pursuant to
31 Title 9 of the Revised Statutes in an action affecting custody, but prior
32 to the issuance of a temporary or final order determining custody
33 rights of a minor child, takes, detains, entices or conceals the child
34 within or outside the State for the purpose of evading the jurisdiction
35 of the courts of this State; or

36 (4) After the issuance of a temporary or final order specifying
37 custody, joint custody rights or parenting time, takes, detains, entices
38 or conceals a minor child from the other parent in violation of the
39 custody or parenting time order.

40 Interference with custody is a crime of the second degree if the
41 child is taken, detained, enticed or concealed: (i) outside the United
42 States or (ii) for more than 24 hours Otherwise, interference with
43 custody is a crime of the third degree but the presumption of
44 non-imprisonment set forth in subsection e. of N.J.S.2C:44-1 for a first
45 offense of a crime of the third degree shall not apply.

46 b. Custody of committed persons. A person is guilty of a crime of

1 the fourth degree if he knowingly takes or entices any committed
2 person away from lawful custody when he is not privileged to do so.
3 "Committed person" means, in addition to anyone committed under
4 judicial warrant, any orphan, neglected or delinquent child, mentally
5 defective or insane person, or other dependent or incompetent person
6 entrusted to another's custody by or through a recognized social
7 agency or otherwise by authority of law.

8 c. It is an affirmative defense to a prosecution under subsection a.
9 of this section, which must be proved by clear and convincing
10 evidence, that:

11 (1) The actor reasonably believed that the action was necessary to
12 preserve the child from imminent danger to his welfare. However, no
13 defense shall be available pursuant to this subsection if the actor does
14 not, as soon as reasonably practicable but in no event more than 24
15 hours after taking a child under his protection, give notice of the
16 child's location to the police department of the municipality where the
17 child resided, the office of the county prosecutor in the county where
18 the child resided, or the Division of [Youth and Family Services]
19 Child Protection and Permanency in the Department of Human
20 Services;

21 (2) The actor reasonably believed that the taking or detaining of
22 the minor child was consented to by the other parent, or by an
23 authorized State agency; or

24 (3) The child, being at the time of the taking or concealment not
25 less than 14 years old, was taken away at his own volition and without
26 purpose to commit a criminal offense with or against the child.

27 d. It is an affirmative defense to a prosecution under subsection a.
28 of this section that a parent having the right of custody reasonably
29 believed he was fleeing from imminent physical danger from the other
30 parent, provided that the parent having custody, as soon as reasonably
31 practicable:

32 (1) Gives notice of the child's location to the police department of
33 the municipality where the child resided, the office of the county
34 prosecutor in the county where the child resided, or the Division of
35 [Youth and Family Services] Child Protection and Permanency in the
36 Department of Human Services; or

37 (2) Commences an action affecting custody in an appropriate court.

38 e. The offenses enumerated in this section are continuous in nature
39 and continue for so long as the child is concealed or detained.

40 f. (1) In addition to any other disposition provided by law, a person
41 convicted under subsection a. of this section shall make restitution of
42 all reasonable expenses and costs, including reasonable counsel fees,
43 incurred by the other parent in securing the child's return.

44 (2) In imposing sentence under subsection a. of this section the
45 court shall consider, in addition to the factors enumerated in chapter
46 44 of Title 2C of the New Jersey Statutes:

1 (a) Whether the person returned the child voluntarily; and

2 (b) The length of time the child was concealed or detained.

3 g. As used in this section, "parent" means a parent, guardian or
4 other lawful custodian of a minor child.

5 (cf: P.L.1999, c.190, s.2)

6

7 24. Section 4 of P.L.1999, c.334 (C.2C:35-5.7) is amended to read
8 as follows:

9 4. a. When a person is charged with a criminal offense on a
10 warrant and the person is released from custody before trial on bail or
11 personal recognizance, the court, upon application of a law
12 enforcement officer or prosecuting attorney pursuant to section 3 of
13 P.L.2001, c.365 (C.2C:35-5.9) and except as provided in subsection
14 e. of this section, shall as a condition of release issue an order
15 prohibiting the person from entering any place defined by subsection
16 b. of section 3 of P.L.1999, c.334 (C.2C:35-5.6), including a buffer
17 zone surrounding the place or modifications as provided by subsection
18 f. of this section.

19 b. When a person is charged with a criminal offense on a summons,
20 the court, upon application of a law enforcement officer or prosecuting
21 attorney pursuant to section 3 of P.L.2001, c.365 (C.2C:35-5.9) and
22 except as provided in subsection e. of this section, shall, at the time of
23 the defendant's first appearance, issue an order prohibiting the person
24 from entering any place defined by subsection b. of section 3 of
25 P.L.1999, c.334 (C.2C:35-5.6), including a buffer zone surrounding
26 the place or modifications as provided by subsection f. of this section.

27 c. When a person is charged with a criminal offense on a juvenile
28 delinquency complaint and is released from custody at a detention
29 hearing pursuant to section 19 of P.L.1982, c.77 (C.2A:4A-38), the
30 court, upon application of a law enforcement officer or prosecuting
31 attorney pursuant to section 3 of P.L.2001, c.365 (C.2C:35-5.9) and
32 except as provided in subsection e. of this section, shall issue an order
33 prohibiting the person from entering any place defined by subsection
34 b. of section 3 of P.L.1999, c.334 (C.2C:35-5.6), including a buffer
35 zone surrounding the place or modifications as provided by subsection
36 f. of this section.

37 d. When a person is charged with a criminal offense on a juvenile
38 delinquency complaint and is released without being detained pursuant
39 to section 15 or 16 of P.L.1982, c.77 (C.2A:4A:34 or C.2A:4A-35),
40 the law enforcement officer or prosecuting attorney shall prepare an
41 application pursuant to section 3 of P.L.2001, c.365 (C.2C:35-5.9) for
42 filing on the next court day.

43 The law enforcement officer releasing the juvenile shall serve the
44 juvenile and his parent or guardian with written notice that an order
45 shall be issued by the Family Part of the Superior Court on the next
46 court day prohibiting the juvenile from entering any place defined by

1 subsection b. of section 3 of P.L.1999, c.334 (C.2C:35-5.6), including
2 a buffer zone surrounding the place or modifications as provided by
3 subsection f. of this section.

4 The court shall issue such order on the first court day following the
5 release of the juvenile. If the restraints contained in the court order
6 differ from the restraints contained in the notice, the order shall not be
7 effective until the third court day following the issuance of the order.
8 The juvenile may apply to the court to stay or modify the order on the
9 grounds set forth in subsection e. of this section.

10 e. The court may forego issuing a restraining order for which
11 application has been made pursuant to section 3 of P.L.2001, c.365
12 (C.2C:35-5.9) only if the defendant establishes by clear and convincing
13 evidence that:

14 (1) the defendant lawfully resides at or has legitimate business on
15 or near the place, or otherwise legitimately needs to enter the place.
16 In such an event, the court shall not issue an order pursuant to this
17 section unless the court is clearly convinced that the need to bar the
18 person from the place in order to protect the public safety and the
19 rights, safety and health of the residents and persons working in the
20 place outweighs the person's interest in returning to the place. If the
21 balance of the interests of the person and the public so warrants, the
22 court may issue an order imposing conditions upon the person's entry
23 at, upon or near the place; or

24 (2) the issuance of an order would cause undue hardship to
25 innocent persons and would constitute a serious injustice which
26 overrides the need to protect the rights, safety and health of persons
27 residing in or having business in the place.

28 f. A restraining order issued pursuant to subsection a., b., c., d. or
29 h. of this section shall describe the place from which the person has
30 been barred and any conditions upon the person's entry into the place,
31 with sufficient specificity to enable the person to guide his conduct
32 accordingly and to enable a law enforcement officer to enforce the
33 order. The order shall also prohibit the person from entering an area
34 of up to 500 feet surrounding the place, unless the court rules that a
35 different buffer zone would better effectuate the purposes of this act.
36 In the discretion of the court, the order may contain modifications to
37 permit the person to enter the area during specified times for specified
38 purposes, such as attending school during regular school hours. When
39 appropriate, the court may append to the order a map depicting the
40 place. The person shall be given a copy of the restraining order and
41 any appended map and shall acknowledge in writing the receipt
42 thereof.

43 g. (1) The court shall provide notice of the restraining order to the
44 local law enforcement agency where the arrest occurred and to the
45 county prosecutor.

46 (2) Notwithstanding the provisions of section 1 of P.L.1982, c.79

1 (C.2A:4A-60), prior to the person's conviction or adjudication of
2 delinquency for a criminal offense, the local law enforcement agency
3 may post a copy of any orders issued pursuant to this section, or an
4 equivalent notice containing the terms of the order, upon one or more
5 of the principal entrances of the place or in any other conspicuous
6 location. Such posting shall be for the purpose of informing the
7 public, and the failure to post a copy of the order shall in no way
8 excuse any violation of the order.

9 (3) Notwithstanding the provisions of section 1 of P.L.1982, c.79
10 (C.2A:4A-60), prior to the person's conviction or adjudication of
11 delinquency for a criminal offense, any law enforcement agency may
12 publish a copy of any orders issued pursuant to this section, or an
13 equivalent notice containing the terms of the order, in a newspaper
14 circulating in the area of the restraining order. Such publication shall
15 be for the purpose of informing the public, and the failure to publish
16 a copy of the order shall in no way excuse any violation of the order.

17 (4) Notwithstanding the provisions of section 1 of P.L.1982, c.79
18 (C.2A:4A-60), prior to the person's conviction or adjudication of
19 delinquency for a criminal offense, any law enforcement agency may
20 distribute copies of any orders issued pursuant to this section, or an
21 equivalent notice containing the terms of the order, to residents or
22 businesses located within the area delineated in the order or, in the
23 case of a school or any government-owned property, to the
24 appropriate administrator, or to any tenant association representing the
25 residents of the affected area. Such distribution shall be for the
26 purpose of informing the public, and the failure to publish a copy of
27 the order shall in no way excuse any violation of the order.

28 h. When a person is convicted of or adjudicated delinquent for any
29 criminal offense, the court, upon application of a law enforcement
30 officer or prosecuting attorney pursuant to section 3 of P.L.2001,
31 c.365 (C.2C:35-5.9) and except as provided in subsection e. of this
32 section, shall, by separate order or within the judgment of conviction,
33 issue an order prohibiting the person from entering any place defined
34 by subsection b. of section 3 of P.L.1999, c.334 (C.2C:35-5.6),
35 including a buffer zone surrounding the place or modifications as
36 provided by subsection f. of this section. Upon the person's conviction
37 or adjudication of delinquency for a criminal offense, a law
38 enforcement agency, in addition to posting, publishing, and
39 distributing the order or an equivalent notice pursuant to paragraphs
40 (2), (3) and (4) of subsection g. of this section, may also post, publish
41 and distribute a photograph of the person.

42 i. When a juvenile has been adjudicated delinquent for an act
43 which, if committed by an adult, would be a criminal offense, in
44 addition to an order required by subsection h. of this section or any
45 other disposition authorized by law, the court may order the juvenile
46 and any parent, guardian or any family member over whom the court

1 has jurisdiction to take such actions or obey such restraints as may be
2 necessary to facilitate the rehabilitation of the juvenile or to protect
3 public safety or to safeguard or enforce the rights of residents of the
4 place. The court may commit the juvenile to the care of the
5 Department of Human Services under the responsibility of the Division
6 of [Youth and Family] Child Protection and Permanency or an
7 alternate entity within the Department of Human Services designated
8 by the commissioner until such time as the juvenile reaches the age of
9 18 or until the order of removal and restraint expires, whichever first
10 occurs, or to such alternative residential placement as is practicable.

11 j. An order issued pursuant to subsection a., b., c. or d. of this
12 section shall remain in effect until the case has been adjudicated or
13 dismissed, or for not less than two years, whichever is less. An order
14 issued pursuant to subsection h. of this section shall remain in effect
15 for such period of time as shall be fixed by the court but not longer
16 than the maximum term of imprisonment or incarceration allowed by
17 law for the underlying offense or offenses. When the court issues a
18 restraining order pursuant to subsection h. of this section and the
19 person is also sentenced to any form of probationary supervision or
20 participation in the Intensive Supervision Program, the court shall
21 make continuing compliance with the order an express condition of
22 probation or the Intensive Supervision Program. When the person has
23 been sentenced to a term of incarceration, continuing compliance with
24 the terms and conditions of the order shall be made an express
25 condition of the person's release from confinement or incarceration on
26 parole. At the time of sentencing or, in the case of a juvenile, at the
27 time of disposition of the juvenile case, the court shall advise the
28 defendant that the restraining order shall include a fixed time period in
29 accordance with this subsection and shall include that provision in the
30 judgment of conviction, dispositional order, separate order or order
31 vacating an existing restraining order, to the law enforcement agency
32 that made the arrest and to the county prosecutor.

33 k. All applications to stay or modify an order issued pursuant to
34 this act, including an order originally issued in municipal court, shall
35 be made in the Superior Court. The court shall immediately notify the
36 county prosecutor in writing whenever an application is made to stay
37 or modify an order issued pursuant to this act. If the court does not
38 issue a restraining order, the sentence imposed by the court for a
39 criminal offense as defined in subsection b. of this section shall not
40 become final for ten days in order to permit the appeal of the court's
41 findings by the prosecution.

42 l. Nothing in this section shall be construed in any way to limit the
43 authority of the court to take such other actions or to issue such
44 orders as may be necessary to protect the public safety or to safeguard
45 or enforce the rights of others with respect to the place.

46 m. Notwithstanding any other provision of this section, the court

1 may permit the person to return to the place to obtain personal
2 belongings and effects and, by court order, may restrict the time and
3 duration and provide for police supervision of such a visit.

4 (cf: P.L.2001, c.365, s.2)

5
6 25. Section 3 of P.L.1995, c.76 (C.3B:12-69) is amended to read
7 as follows:

8 3. As used in this act:

9 "Appointed standby guardian" means a person appointed pursuant
10 to section 6 of this act to assume the duties of guardian over the
11 person and, when applicable, the property of a minor child upon the
12 death or a determination of incapacity or debilitation, and with the
13 consent, of the parent or legal custodian.

14 "Attending physician" means the physician who has primary
15 responsibility for the treatment and care for the petitioning parent or
16 legal custodian. When more than one physician shares this
17 responsibility, or when a physician is acting on the primary physician's
18 behalf, any such physician may act as the attending physician pursuant
19 to this act. When no physician has this responsibility, a physician who
20 is familiar with the petitioner's medical condition may act as the
21 attending physician pursuant to this act.

22 "Consent" means written consent signed by the parent or legal
23 custodian in the presence of two witnesses who shall also sign the
24 document. The written consent shall constitute the terms for the
25 commencement of the duties of the standby guardian.

26 "Debilitation" means a chronic and substantial inability, as a result
27 of a physically debilitating illness, disease, or injury, to care for one's
28 minor child.

29 "Designated standby guardian" means a person designated pursuant
30 to section 8 of this act to assume temporarily the duties of
31 guardianship over the person and, when applicable, the property of a
32 minor child upon the death or a determination of incapacity or
33 debilitation, and with the consent, of the parent or legal custodian.

34 "Designation" means a written document voluntarily executed by
35 the designator pursuant to this act.

36 "Designator" means a competent parent or legal custodian of a
37 minor child who makes a designation pursuant to this act.

38 "Determination of debilitation" means a written determination made
39 by the attending physician which contains the physician's opinion to a
40 reasonable degree of medical certainty regarding the nature, cause,
41 extent and probable duration of the parent's or legal custodian's
42 debilitation.

43 "Determination of incapacity" means a written determination made
44 by the attending physician which contains the physician's opinion to a
45 reasonable degree of medical certainty regarding the nature, cause,
46 extent and probable duration of the parent's or legal custodian's

1 incapacity.

2 "Incapacity" means a chronic and substantial inability, as a result of
3 mental or organic impairment, to understand the nature and
4 consequences of decisions concerning the care of one's minor child,
5 and a consequent inability to make these decisions.

6 "Minor child" means a child under the age of eighteen years but
7 excludes a child residing in a placement funded or approved by the
8 Division of [Youth and Family Services] Child Protection and
9 Permanency in the Department of Human Services pursuant to either
10 a voluntary placement agreement or court order.

11 "Triggering event" means an event stated in the designation,
12 petition or decree which empowers the standby guardian to assume the
13 duties of the office, which event may be the death, incapacity or
14 debilitation, with the consent, of the custodial parent or legal
15 custodian, whichever occurs first.

16 (cf: P.L.1995, c.76, s.3)

17

18 26. Section 2 of P.L.2001, c.250 (C.3B:12A-2) is amended to read
19 as follows:

20 2. As used in sections 1 through 6 of P.L.2001, c.250 (C.3B:12A-1
21 et seq.):

22 "Caregiver" means a person over 18 years of age, other than a
23 child's parent, who has a kinship relationship with the child and has
24 been providing care and support for the child, while the child has been
25 residing in the caregiver's home, for at least the last 12 consecutive
26 months.

27 "Child" means a person under 18 years of age, except as otherwise
28 provided in P.L.2001, c.250 (C.3B:12A-1 et al.).

29 "Commissioner" means the Commissioner of Human Services.

30 "Court" means the Superior Court, Chancery Division, Family Part.

31 "Department" means the Department of Human Services.

32 "Division" means the Division of [Youth and Family Services]
33 Child Protection and Permanency in the Department of Human
34 Services.

35 "Family friend" means a person who is connected to a child or the
36 child's parent by an established positive psychological or emotional
37 relationship that is not a biological or legal relationship.

38 "Home review" means the basic review of the information provided
39 by the petitioner and a visit to the petitioner's home where the child
40 will continue to reside, in accordance with the provisions of P.L.2001,
41 c.250 (C.3B:12A-1 et al.) and pursuant to regulations adopted by the
42 commissioner.

43 "Kinship caregiver assessment" means a written report prepared in
44 accordance with the provisions of P.L.2001, c.250 (C.3B:12A-1 et al.)
45 and pursuant to regulations adopted by the commissioner.

46 "Kinship legal guardian" means a caregiver who is willing to assume

1 care of a child due to parental incapacity, with the intent to raise the
2 child to adulthood, and who is appointed the kinship legal guardian of
3 the child by the court pursuant to P.L.2001, c.250 (C.3B:12A-1 et al.).
4 A kinship legal guardian shall be responsible for the care and
5 protection of the child and for providing for the child's health,
6 education and maintenance.

7 "Kinship relationship" means a family friend or a person with a
8 biological or legal relationship with the child.

9 "Parental incapacity" means incapacity of such a serious nature as
10 to demonstrate that the parent is unable, unavailable or unwilling to
11 perform the regular and expected functions of care and support of the
12 child.

13 (cf: P.L.2001, c.250, s.2)

14
15 27. Section 2 of P.L.1977, c.367 (C.9:3-38) is amended to read as
16 follows:

17 2. For the purposes of this act:

18 a. "Approved agency" means a nonprofit corporation, association
19 or agency, including any public agency, approved by the Department
20 of Human Services for the purpose of placing children for adoption in
21 New Jersey;

22 b. "Child" means a person under 18 years of age;

23 c. "Custody" means the general right to exercise continuing control
24 over the person of a child derived from court order or otherwise;

25 d. "Guardianship" means the right to exercise continuing control
26 over the person or property or both of a child which includes any
27 specific right of control over an aspect of the child's upbringing
28 derived from court order;

29 e. "Guardian ad litem" means a qualified person, not necessarily an
30 attorney, appointed by the court under the provisions of this act or at
31 the discretion of the court to represent the interests of the child
32 whether or not the child is a named party in the action;

33 f. "Parent" means a birth parent or parents, including the birth
34 father of a child born out of wedlock who has acknowledged the child
35 or to whom the court has ordered notice to be given, or a parent or
36 parents by adoption;

37 g. "Placement for adoption" means the transfer of custody of a
38 child to a person for the purpose of adoption by that person;

39 h. "Plaintiff" means a prospective parent or parents who have filed
40 a complaint for adoption;

41 i. "Legal services" means the provision of counseling or advice
42 related to the law and procedure for adoption of a child, preparation
43 of legal documents, or representation of any person before a court or
44 administrative agency;

45 j. "Surrender" means a voluntary relinquishment of all parental
46 rights by a birth parent, previous adoptive parent, or other person or

1 agency authorized to exercise these rights by law, court order or
2 otherwise, for purposes of allowing a child to be adopted;

3 k. "Home study" means an approved agency's formal assessment
4 of the capacity and readiness of prospective adoptive parents to adopt
5 a child, including the agency's written report and recommendations
6 conducted in accordance with rules and regulations promulgated by
7 the Director of the Division of [Youth and Family Services] Child
8 Protection and Permanency; and

9 l. "Intermediary" means any person, firm, partnership, corporation,
10 association or agency, which is not an approved agency as defined in
11 this section, who acts for or between any parent and any prospective
12 parent or acts on behalf of either in connection with the placement of
13 the parent's child for adoption in the State or in any other state or
14 country. An intermediary in any other state or country shall not
15 receive money or other valuable consideration in connection with the
16 placement of a child for adoption in this State. An intermediary in this
17 State shall not receive money or other valuable consideration in
18 connection with the placement of a child for adoption in this State or
19 in any other state or country. The provisions of this subsection shall
20 not be construed to prohibit the receipt of money or other valuable
21 consideration specifically authorized in section 18 of P.L.1993, c.345
22 (C.9:3-39.1).

23 (cf: P.L.1999, c.53, s.2)

24

25 28. Section 18 of P.L.1993, c.345 (C.9:3-39.1) is amended to read
26 as follows:

27 18. a. A person, firm, partnership, corporation, association or
28 agency shall not place, offer to place or materially assist in the
29 placement of any child for adoption in New Jersey unless:

30 (1) the person is the parent or guardian of the child, or

31 (2) the firm, partnership, corporation, association or agency is an
32 approved agency to act as agent, finder or to otherwise materially
33 assist in the placement of any child for adoption in this State, or

34 (3) the placement for adoption is with a brother, sister, aunt, uncle,
35 grandparent, birth father or stepparent of the child, or

36 (4) the placement is through an intermediary and (a) the person
37 with whom the child is to be placed has been approved for placement
38 for adoption by an approved agency home study which consists of the
39 agency's formal written assessment of the capacity and readiness of the
40 prospective adoptive parents to adopt a child, conducted in
41 accordance with rules and regulations promulgated by the Director of
42 the Division of [Youth and Family Services] Child Protection and
43 Permanency;

44 (b) The birth parent, except one who cannot be identified or
45 located prior to the placement of the child for adoption, shall be
46 offered counseling as to his or her options other than placement of the

1 child for adoption. Such counseling shall be made available by or
2 through an approved licensed agency in New Jersey or in the birth
3 parent's state or country of residence. The fact that counseling has
4 been made available, and the name, address and telephone number of
5 the agency through which the counseling is available, shall be
6 confirmed in a written document signed by the birth parent and
7 acknowledged in this State pursuant to section 1 of P.L.1991, c.308
8 (R.S.46:14-2.1) or acknowledged in another state or country pursuant
9 to section 1 of P.L.1991, c.308 (R.S.46:14-6.1) a copy of which shall
10 be provided to the birth parent and the agency conducting the adoption
11 complaint investigation pursuant to section 12 of P.L.1977, c.367
12 (C.9:3-48) and shall be filed with the court prior to termination of
13 parental rights; and

14 (c) Written notice shall be given to the birth parent, except one
15 who cannot be identified or located prior to the placement of the child
16 for adoption, and the adoptive parent that the decision not to place the
17 child for adoption or the return of the child to the birth parent cannot
18 be conditioned upon reimbursement of expenses by the birth parent to
19 the adoptive parent, and that payments by the adoptive parent are
20 non-refundable. Provision of such notice shall be confirmed in a
21 written document signed by the birth parent and adoptive parent in
22 separate documents which shall be acknowledged in this State
23 pursuant to section 1 of P.L.1991, c.308 (C.46:14-2.1) or
24 acknowledged in another state or country pursuant to section 1 of
25 P.L.1991, c.308 (R.S.46:14-6.1), a copy of which shall be provided to
26 the birth parent, and the agency conducting the adoption complaint
27 investigation pursuant to section 12 of P.L.1977, c.367 (C.9:3-48),
28 and shall be filed with the court prior to termination of parental rights.

29 b. The Superior Court in an action by the Commissioner of Human
30 Services may enjoin any party found by the court to have violated this
31 section from any further violation of this section.

32 c. A person, firm, partnership, corporation, association, or agency
33 violating subsection a. of this section shall be guilty of a crime of the
34 third degree.

35 d. A person, firm, partnership, corporation, association,
36 intermediary or agency other than an approved agency which pays,
37 seeks to pay, receives, or seeks to receive money or other valuable
38 consideration in connection with the placement of a child for adoption
39 shall be guilty of a crime of the second degree.

40 e. It shall not be a violation of subsection d. of this section: (1) to
41 pay, provide or reimburse to a parent of the child, or for a parent of
42 the child to receive payment, provision or reimbursement for medical,
43 hospital, counseling or other similar expenses incurred in connection
44 with the birth or any illness of the child, or the reasonable living
45 expenses of the mother of the child during her pregnancy including
46 payments for reasonable food, clothing, medical expenses, shelter, and

1 religious, psychological, vocational, or similar counseling services
2 during the period of the pregnancy and for a period not to exceed four
3 weeks after the termination of the pregnancy by birth or otherwise.
4 These payments may be made directly to the birth mother or on the
5 mother's behalf to the supplier of the goods or services, or

6 (2) where the child is from a foreign country, reasonable and
7 customary fees and expenses of a foreign agency or attorney for the
8 care or representation of the child during any period of foster or
9 institutional care in the child's country of origin, or

10 (3) reasonable attorney fees and costs for legal services.

11 (cf: P.L.1993, c.345, s.18)

12
13 29. Section 8 of P.L.1977, c.367 (C.9:3-44) is amended to read as
14 follows:

15 8. Whenever a person receives a child into his home for the
16 purpose of adoption other than from an approved agency, a complaint
17 for adoption shall be filed within 45 days after receipt of the child. If
18 the person receiving the child has been approved previously for
19 placement for adoption in accordance with the provisions of section 18
20 of P.L.1993, c.345 (C.9:3-39.1), the person shall, immediately upon
21 receiving the child, notify the approved agency which granted such
22 approval of the receipt of the child, and that agency shall undertake
23 immediate supervision of the child in accordance with rules and
24 regulations promulgated by the Director of the Division of [Youth and
25 Family Services] Child Protection and Permanency. The cost of such
26 supervision shall be paid by the person receiving the child. If the
27 agency, in the course of supervision shall determine that the child is at
28 risk of harm or that the best interests of the child are not served by the
29 child remaining in the home, the agency may apply to a court for
30 removal of the child from the home. Whenever a person receives a
31 child into his home for purposes other than adoption and it is later
32 determined that an adoption shall be sought, a complaint for adoption
33 shall be instituted with reasonable promptness following the
34 determination. Failure to file the complaint in a timely manner shall
35 not be a sole basis for refusal of the adoption but the failure shall
36 require the filing, with the complaint, of an affidavit setting forth the
37 reasons for the delay.

38 (cf: P.L.1993, c.345, s.7)

39
40 30. Section 3 of P.L.1999, c.53 (C.9:3-45.2) is amended to read as
41 follows:

42 3. In any case in which the Division of [Youth and Family
43 Services] Child Protection and Permanency accepts a child in its care
44 or custody, the child's foster parent, preadoptive parent or relative
45 providing care for the child, as applicable, shall receive written notice
46 of and an opportunity to be heard at any review or hearing held with

1 respect to the child, but the foster parent, preadoptive parent or
2 relative shall not be made a party to the review or hearing solely on the
3 basis of the notice and opportunity to be heard.

4 (cf: P.L.1999, c.53, s.3)

5
6 31. Section 21 of P.L.1993, c.345 (C.9:3-54.2) is amended to read
7 as follows:

8 21. a. (1) In addition to meeting the other requirements established
9 by the Department of Human Services, a home study completed by an
10 approved agency shall include a recommendation regarding the
11 suitability of the home for the placement of a child based upon the
12 results of State and federal criminal history record checks for each
13 prospective adoptive parent and each adult residing in the home.

14 For the purposes of this section, the federal criminal history record
15 check conducted by the Immigration and Naturalization Service in the
16 federal Department of Justice on a prospective adoptive parent shall
17 be valid for the prospective adoptive parent in fulfilling the home study
18 requirement for the State.

19 (2) Each prospective adoptive parent and each member of the
20 prospective adoptive parent's household, age 18 or older, shall submit
21 to the approved agency standard fingerprint cards containing his name,
22 address and fingerprints taken by a State or municipal law enforcement
23 agency.

24 (3) The cost of all criminal history record checks conducted
25 pursuant to this section shall be paid by the prospective adoptive
26 parent or household member at the time the fingerprint cards are
27 submitted.

28 (4) The approved agency shall forward the fingerprint cards and
29 payment to the commissioner.

30 (5) The commissioner is authorized to exchange fingerprint data
31 and receive criminal history record information from the Federal
32 Bureau of Investigation and the Division of State Police for use in
33 making the recommendations provided for in this section.

34 (6) The department shall advise the approved agency of
35 information received from State and federal criminal history record
36 checks based upon the fingerprints submitted by the agency.
37 Information provided to the approved agency shall be confidential and
38 not disclosed by the approved agency to any individual or entity
39 without the written permission of the person who is the subject of the
40 record check.

41 (7) The commissioner shall adopt regulations for the use of
42 criminal history record information by approved agencies when
43 determining the suitability of a home for the placement of a child for
44 the purposes of adoption.

45 b. (1) Beginning one year after the effective date of this act, a
46 home study completed by an approved agency shall include a

1 recommendation regarding the suitability of the home for the
2 placement of the child based upon a check for any records which might
3 reveal a history of child abuse or neglect by the proposed adoptive
4 parent or member of the parent's household who is 18 years of age or
5 older.

6 (2) Beginning one year after the effective date, at the request of an
7 approved agency, the commissioner or his designee shall conduct a
8 search of the records of the Division of [Youth and Family Services]
9 Child Protection and Permanency regarding referrals of dispositions of
10 child abuse or neglect matters as to the proposed adoptive parent and
11 any member of the parent's household 18 years of age or older, and,
12 if there is information that would raise a question of the suitability of
13 the proposed adoptive parent or member of the parent's household to
14 have guardianship of a child, shall provide that information to the
15 approved agency for its consideration. Information provided to the
16 approved agency pursuant to this paragraph shall be confidential. The
17 commissioner shall establish penalties for disclosure of this
18 confidential information.

19 (cf: P.L.1997, c.176, s.1)

20
21 32. Section 7 of P.L.1987, c.341 (C.9:6-3.1) is amended to read as
22 follows:

23 7. a. A teacher, employee, volunteer or staff person of an
24 institution as defined in section 1 of P.L.1974, c.119 (C.9:6-8.21) who
25 is alleged to have committed an act of child abuse or neglect as defined
26 in R.S. 9:6-1, section 2 of P.L.1971, c.437 (C.9:6-8.9) and section 1
27 of P.L.1974, c.119 (C.9:6-8.21) shall be temporarily suspended by the
28 appointing authority from his position at the institution with pay, or
29 reassigned to other duties which would remove the risk of harm to the
30 child under the person's custody or control, if there is reasonable cause
31 for the appointing authority to believe that the life or health of the
32 alleged victim or other children at the institution is in imminent danger
33 due to continued contact between the alleged perpetrator and a child
34 at the institution.

35 A public employee suspended pursuant to this subsection shall be
36 accorded and may exercise due process rights, including notice of the
37 proposed suspension and a presuspension opportunity to respond and
38 any other due process rights provided under the laws of this State
39 governing public employment and under any applicable individual or
40 group contractual agreement. A private employee suspended pursuant
41 to this subsection shall be accorded and may exercise due process
42 rights provided for under the laws of this State governing private
43 employment and under any applicable individual or group employee
44 contractual agreement.

45 b. If the child abuse or neglect is the result of a single act occurring
46 in an institution, within 30 days of receipt of the report of child abuse

1 or neglect, the [division] Division of Child Protection and
2 Permanency may request that the chief administrator of the institution
3 formulate a plan of remedial action. The plan may include, but shall
4 not be limited to, action to be taken with respect to a teacher,
5 employee, volunteer or staff person of the institution to assure the
6 health and safety of the alleged victim and other children at the
7 institution and to prevent future acts of abuse or neglect. Within 30
8 days of the date the division requested the remedial plan, the chief
9 administrator shall notify the division in writing of the progress in
10 preparing the plan. The chief administrator shall complete the plan
11 within 90 days of the date the division requested the plan.

12 c. If the child abuse or neglect is the result of several incidents
13 occurring in an institution, within 30 days of receipt of the report of
14 child abuse or neglect, the division may request that the chief
15 administrator of the institution make administrative, personnel or
16 structural changes at the institution. Within 30 days of the date the
17 division made its request, the chief administrator shall notify the
18 division of the progress in complying with the terms of the division's
19 request. The division and chief administrator shall determine a time
20 frame for completion of the terms of the request.

21 d. If a chief administrator of an institution does not formulate or
22 implement a remedial plan or make any changes requested by the
23 division, the division may recommend to the authority which licenses,
24 oversees, approves or authorizes the operation of the institution that
25 appropriate sanctions or actions be enforced or taken against the
26 institution.

27 (cf: P.L.1987, c.341, s.7)

28

29 33. Section 1 of P.L.1971, c.437 (C.9:6-8.8) is amended to read as
30 follows:

31 1. a. The purpose of this act is to provide for the protection of
32 children under 18 years of age who have had serious injury inflicted
33 upon them by other than accidental means. The safety of the children
34 served shall be of paramount concern. It is the intent of this legislation
35 to assure that the lives of innocent children are immediately
36 safeguarded from further injury and possible death and that the legal
37 rights of such children are fully protected.

38 b. (1) In accordance with the provisions of paragraphs (2), (3), and
39 (4) of this subsection, when determining the reasonable efforts to be
40 made and when making the reasonable efforts, the child's health and
41 safety shall be of paramount concern.

42 (2) In any case in which the [division] Division of Child Protection
43 and Permanency accepts a child in care or custody, the division shall
44 make reasonable efforts, prior to placement, to preserve the family in
45 order to prevent the need for removing the child from his home. After
46 placement, the division shall make reasonable efforts to make it

1 possible for the child to safely return to his home.

2 (3) Reasonable efforts to place a child for adoption or with a legal
3 guardian or in an alternative permanent placement may be made
4 concurrently with reasonable efforts to preserve and reunify the child's
5 family.

6 (4) In any case in which family reunification is not the permanency
7 plan for the child, reasonable efforts shall be made to place the child
8 in a timely manner and to complete the steps necessary to finalize the
9 permanent placement of the child.

10 (cf: P.L.1999, c.53, s.4)

11

12 34. Section 3 of P.L.1971, c.437 (C.9:6-8.10) is amended to read
13 as follows:

14 3. Any person having reasonable cause to believe that a child has
15 been subjected to child abuse or acts of child abuse shall report the
16 same immediately to the Division of [Youth and Family Services]
17 Child Protection and Permanency by telephone or otherwise. Such
18 reports, where possible, shall contain the names and addresses of the
19 child and his parent, guardian, or other person having custody and
20 control of the child and, if known, the child's age, the nature and
21 possible extent of the child's injuries, abuse or maltreatment, including
22 any evidence of previous injuries, abuse or maltreatment, and any
23 other information that the person believes may be helpful with respect
24 to the child abuse and the identity of the perpetrator.

25 (cf: P.L.1971, c.437, s.3)

26

27 35. Section 1 of P.L.1977, c.102 (C.9:6-8.10a) is amended to read
28 as follows:

29 1. a. All records of child abuse reports made pursuant to section
30 3 of P.L.1971, c.437 (C.9:6-8.10), all information obtained by the
31 Division of [Youth and Family Services] Child Protection and
32 Permanency in investigating such reports including reports received
33 pursuant to section 20 of P.L.1974, c.119 (C.9:6-8.40), and all reports
34 of findings forwarded to the central registry pursuant to section 4 of
35 P.L.1971, c.437 (C.9:6-8.11) shall be kept confidential and may be
36 disclosed only under the circumstances expressly authorized under
37 subsections b., c., d. , e. and f. herein. The division shall disclose
38 information only as authorized under subsections b., c., d.,e. and f. of
39 this section that is relevant to the purpose for which the information
40 is required, provided, however, that nothing may be disclosed which
41 would likely endanger the life, safety, or physical or emotional
42 well-being of a child or the life or safety of any other person or which
43 may compromise the integrity of a division investigation or a civil or
44 criminal investigation or judicial proceeding. If the division denies
45 access to specific information on this basis, the requesting entity may
46 seek disclosure through the Chancery Division of the Superior Court.

1 This section shall not be construed to prohibit disclosure pursuant to
2 paragraphs (2) and (7) of subsection b. of this section.

3 Nothing in this act shall be construed to permit the disclosure of
4 any information deemed confidential by federal or State law.

5 b. The division may and upon written request, shall release the
6 records and reports referred to in subsection a., or parts thereof,
7 consistent with the provisions of P.L.1997, c.175 (C.9:6-8.83 et al.)
8 to:

9 (1) A public or private child protective agency authorized to
10 investigate a report of child abuse or neglect;

11 (2) A police or other law enforcement agency investigating a report
12 of child abuse or neglect;

13 (3) A physician who has before him a child whom he reasonably
14 suspects may be abused or neglected or an authorized member of the
15 staff of a duly designated regional child abuse diagnostic and treatment
16 center which is involved with a particular child who is the subject of
17 the request;

18 (4) A physician, a hospital director or his designate, a police officer
19 or other person authorized to place a child in protective custody when
20 such person has before him a child whom he reasonably suspects may
21 be abused or neglected and requires the information in order to
22 determine whether to place the child in protective custody;

23 (5) An agency, whether public or private, including any other
24 division or unit in the Department of Human Services, or any other
25 State department or agency, authorized to care for, treat, or supervise
26 a child who is the subject of a child abuse report, or a parent, guardian
27 or other person who is responsible for the child's welfare, or both,
28 when the information is needed for the protection of the child, in
29 connection with the provision of care, treatment, or supervision to
30 such child or such parent, guardian or other person;

31 (6) A court or the Office of Administrative Law, upon its finding
32 that access to such records may be necessary for determination of an
33 issue before it, and such records may be disclosed by the court or the
34 Office of Administrative Law in whole or in part to the law guardian,
35 attorney or other appropriate person upon a finding that such further
36 disclosure is necessary for determination of an issue before the court
37 or the Office of Administrative Law;

38 (7) A grand jury upon its determination that access to such records
39 is necessary in the conduct of its official business;

40 (8) Any appropriate State legislative committee acting in the
41 course of its official functions, provided, however, that no names or
42 other information identifying persons named in the report shall be
43 made available to the legislative committee unless it is absolutely
44 essential to the legislative purpose;

45 (9) (Deleted by amendment, P.L.1997, c.175).

46 (10) A family day care sponsoring organization for the purpose of

1 providing information on child abuse or neglect allegations involving
2 prospective or current providers or household members pursuant to
3 P.L.1993, c.350 (C.30:5B-25.1 et seq.) and as necessary, for use in
4 administrative appeals related to information obtained through a
5 central registry search;

6 (11) The Victims of Crime Compensation Board, for the purpose
7 of providing services available pursuant to the "Criminal Injuries
8 Compensation Act of 1971," P.L.1971, c.317 (C.52:4B-1 et seq.) to
9 a child victim who is the subject of such report;

10 (12) Any person appealing a division service or status action or a
11 substantiated finding of child abuse or neglect and his attorney or
12 authorized lay representative upon a determination by the division or
13 the presiding Administrative Law Judge that such disclosure is
14 necessary for a determination of the issue on appeal;

15 (13) Any person or entity mandated by statute to consider child
16 abuse or neglect information when conducting a background check or
17 employment-related screening of an individual employed by or seeking
18 employment with an agency or organization providing services to
19 children;

20 (14) Any person or entity conducting a disciplinary, administrative
21 or judicial proceeding to determine terms of employment or continued
22 employment of an officer, employee, or volunteer with an agency or
23 organization providing services for children. The information may be
24 disclosed in whole or in part to the appellant or other appropriate
25 person only upon a determination by the person or entity conducting
26 the proceeding that the disclosure is necessary to make a
27 determination;

28 (15) The members of a county multi-disciplinary team, established
29 in accordance with State guidelines, for the purpose of coordinating
30 the activities of agencies handling alleged cases of child abuse and
31 neglect;

32 (16) A person being evaluated by the division or the court as a
33 potential care-giver to determine whether that person is willing and
34 able to provide the care and support required by the child;

35 (17) The legal counsel of a child, parent or guardian, whether
36 court-appointed or retained, when information is needed to discuss the
37 case with the division in order to make decisions relating to or
38 concerning the child;

39 (18) A person who has filed a report of suspected child abuse or
40 neglect for the purpose of providing that person with only the
41 disposition of the investigation;

42 (19) A parent or legal guardian when the information is needed in
43 a division matter in which that parent or guardian is directly involved.
44 The information may be released only to the extent necessary for the
45 requesting parent or guardian to discuss services or the basis for the
46 division's involvement or to develop, discuss, or implement a case plan

1 for the child;

2 (20) A federal, State or local government entity, to the extent
3 necessary for such entity to carry out its responsibilities under law to
4 protect children from abuse and neglect;

5 (21) Citizen review panels designated by the State in compliance
6 with the federal "Child Abuse Prevention and Treatment Act
7 Amendments of 1996," Pub.L.104-235;

8 (22) The Child Fatality and Near Fatality Review Board established
9 pursuant to P.L.1997, c.175 (C.9:6-8.83 et al.).

10 Any individual, agency, board, court, grand jury, legislative
11 committee, or other entity which receives from the division the records
12 and reports referred to in subsection a., shall keep such records and
13 reports, or parts thereof, confidential and shall not disclose such
14 records and reports or parts thereof except as authorized by law.

15 c. The division may share information with a child who is the
16 subject of a child abuse or neglect report, as appropriate to the child's
17 age or condition, to enable the child to understand the basis for the
18 division's involvement and to participate in the development,
19 discussion, or implementation of a case plan for the child.

20 d. The division may release the records and reports referred to in
21 subsection a. of this section to any person engaged in a bona fide
22 research purpose, provided, however, that no names or other
23 information identifying persons named in the report shall be made
24 available to the researcher unless it is absolutely essential to the
25 research purpose and provided further that the approval of the
26 Director of the Division of [Youth and Family Services] Child
27 Protection and Permanency shall first have been obtained.

28 e. For incidents determined by the division to be substantiated, the
29 division shall forward to the police or law enforcement agency in
30 whose jurisdiction the child named in the report resides, the identity
31 of persons alleged to have committed child abuse or neglect and of
32 victims of child abuse or neglect, their addresses, the nature of the
33 allegations, and other relevant information, including, but not limited
34 to, prior reports of abuse or neglect and names of siblings obtained by
35 the division during its investigation of a report of child abuse or
36 neglect. The police or law enforcement agency shall keep such
37 information confidential.

38 f. The division may disclose to the public the findings or
39 information about a case of child abuse or neglect which has resulted
40 in a child fatality or near fatality. Nothing may be disclosed which
41 would likely endanger the life, safety, or physical or emotional
42 well-being of a child or the life or safety of any other person or which
43 may compromise the integrity of a division investigation or a civil or
44 criminal investigation or judicial proceeding. If the division denies
45 access to specific information on this basis, the requesting entity may
46 seek disclosure of the information through the Chancery Division of

1 the Superior Court. No information may be disclosed which is deemed
2 confidential by federal or State law. The name or any other
3 information identifying the person or entity who referred the child to
4 the division shall not be released to the public.

5 (cf: P.L.1997, c.175, s.16)

6
7 36. Section 4 of P.L.1971, c.437 (C.9:6-8.11) is amended to read
8 as follows:

9 4. Upon receipt of any such report the [Bureau of Children's
10 Services] Division of Child Protection and Permanency shall
11 immediately take such action as shall be necessary to insure the safety
12 of the child and to that end may request and shall receive appropriate
13 assistance from local and State law enforcement officials. The
14 [bureau] division shall also, within 72 hours, forward a report of such
15 matter to the [Central Registry of the Bureau of Children's Services
16 in Trenton] central registry of the division. No information received
17 in the central registry shall be considered as a public record within the
18 meaning of P.L.1963, c.73.

19 (cf: P.L.1971, c.437, s.4)

20
21 37. Section 5 of P.L.1971, c.437 (C.9:6-8.12) is amended to read
22 as follows:

23 5. The [Bureau of Children's Services] Division of Child Protection
24 and Permanency shall maintain in each of its districts on a 24 hour
25 daily basis throughout each year an emergency telephone service for
26 the receipt of child abuse calls.

27 (cf: P.L.1971, c.437, s.5)

28
29 38. Section 8 of P.L.1971, c.437 (C.9:6-8.15) is amended to read
30 as follows:

31 8. The [Bureau of Children's Services] Division of Child
32 Protection and Permanency shall from time to time promulgate such
33 rules and regulations as may be necessary to effectuate the provisions
34 of this act.

35 (cf: P.L.1971, c.437, s.8)

36
37 39. Section 2 of P.L.1973, c.147 (C.9:6-8.17) is amended to read
38 as follows:

39 2. The physician or the director or his designate of a hospital or
40 similar institution taking a child into such protective custody shall
41 immediately report his action to the [Bureau of Children's Services or
42 its successor, the] Division of [Youth and Family Services] Child
43 Protection and Permanency, by calling its local emergency telephone
44 service maintained pursuant to section 5 of P.L.1971, c.437
45 (C.9:6-8.12).

1 (cf: P.L.1973, c.147, s.2)

1 40. Section 3 of P.L.1973, c.147 (C.9:6-8.18) is amended to read
2 as follows:

3 3. The [Bureau of Children's Services or its successor, the]
4 Division of [Youth and Family Services] Child Protection and
5 Permanency, shall upon receipt of such report, take action to insure
6 the safety of the child under section 4 of P.L.1971, c.437 (C.9:6-8.11).
7 The said report shall be deemed an oral complaint under section 12 of
8 P.L.1951, c.138 (C.30:4C-12), and the [Bureau of Children's Services
9 or its successor, the] Division of [Youth and Family Services,] Child
10 Protection and Permanency shall investigate the circumstances under
11 which the child was injured and may, after such investigation has been
12 completed, apply for a court order placing the child under its care and
13 supervision, pursuant to section 12 of P.L.1951, c.138 (C.30:4C-12).
14 (cf: P.L.1973, c.147, s.3)

15
16 41. Section 4 of P.L.1973, c.147 (C.9:6-8.19) is amended to read
17 as follows:

18 4. a. The [Bureau of Children's Services or its successor, the]
19 Division of [Youth and Family Services,] Child Protection and
20 Permanency shall immediately after the receipt of such report, and
21 after making a determination to take the child into protective custody,
22 shall serve or attempt to serve, written notice upon the parents or
23 guardian that the [said] child has been taken into protective custody.
24 The notice shall contain a statement of the maximum duration of the
25 protective custody and the location of the child during protective
26 custody.

27 b. The parents or guardian of a child in protective custody may,
28 upon request and in the reasonable discretion of the physician,
29 director, or his designate, or appropriate official of the [Bureau of
30 Children's Services, or its successor, the] Division of [Youth and
31 Family Services] Child Protection and Permanency, visit the [said]
32 child, provided that the life or health of the child will not be
33 endangered by such visit.

34 c. The entire period of protective custody shall not exceed 3 court
35 days. The protective custody may be terminated earlier at the
36 discretion of the reporting physician, director or appropriate official
37 of the [Bureau of Children's Services or its successor, the] Division
38 of [Youth and Family Services] Child Protection and Permanency, or
39 upon order of the court.

40 (cf: P.L.1973, c.147, s.4)

41
42 42. Section 5 of P.L.1999, c.53 (C.9:6-8.19a) is amended to read
43 as follows:

44 5. In any case in which the Division of [Youth and Family
45 Services] Child Protection and Permanency accepts a child in its care

1 or custody, the child's foster parent, preadoptive parent or relative
2 providing care for the child, as applicable, shall receive written notice
3 of and an opportunity to be heard at any review or hearing held with
4 respect to the child, but the foster parent, preadoptive parent or
5 relative shall not be made a party to the review or hearing solely on the
6 basis of the notice and opportunity to be heard.

7 (cf: P.L.1999, c.53, s.5)

8
9 43. Section 1 of P.L.1974, c.119 (C.9:6-8.21) is amended to read
10 as follows:

11 1. As used in this act, unless the specific context indicates
12 otherwise:

13 a. "Parent or guardian" means any natural parent, adoptive parent,
14 foster parent, stepparent, or any person, who has assumed
15 responsibility for the care, custody or control of a child or upon whom
16 there is a legal duty for such care. Parent or guardian includes a
17 teacher, employee or volunteer, whether compensated or
18 uncompensated, of an institution who is responsible for the child's
19 welfare and any other staff person of an institution regardless of
20 whether or not the person is responsible for the care or supervision of
21 the child. Parent or guardian also includes a teaching staff member or
22 other employee, whether compensated or uncompensated, of a day
23 school as defined in section 1 of P.L.1974, c.119 (C.9:6-8.21).

24 b. "Child" means any child alleged to have been abused or
25 neglected.

26 c. "Abused or neglected child" means a child less than 18 years of
27 age whose parent or guardian, as herein defined, (1) inflicts or allows
28 to be inflicted upon such child physical injury by other than accidental
29 means which causes or creates a substantial risk of death, or serious
30 or protracted disfigurement, or protracted impairment of physical or
31 emotional health or protracted loss or impairment of the function of
32 any bodily organ; (2) creates or allows to be created a substantial or
33 ongoing risk of physical injury to such child by other than accidental
34 means which would be likely to cause death or serious or protracted
35 disfigurement, or protracted loss or impairment of the function of any
36 bodily organ; (3) commits or allows to be committed an act of sexual
37 abuse against the child; (4) or a child whose physical, mental, or
38 emotional condition has been impaired or is in imminent danger of
39 becoming impaired as the result of the failure of his parent or
40 guardian, as herein defined, to exercise a minimum degree of care (a)
41 in supplying the child with adequate food, clothing, shelter, education,
42 medical or surgical care though financially able to do so or though
43 offered financial or other reasonable means to do so, or (b) in
44 providing the child with proper supervision or guardianship, by
45 unreasonably inflicting or allowing to be inflicted harm, or substantial
46 risk thereof, including the infliction of excessive corporal punishment;

1 or by any other acts of a similarly serious nature requiring the aid of
2 the court; (5) or a child who has been willfully abandoned by his
3 parent or guardian, as herein defined; (6) or a child upon whom
4 excessive physical restraint has been used under circumstances which
5 do not indicate that the child's behavior is harmful to himself, others
6 or property; (7) or a child who is in an institution and (a) has been
7 placed there inappropriately for a continued period of time with the
8 knowledge that the placement has resulted or may continue to result
9 in harm to the child's mental or physical well-being or (b) who has
10 been willfully isolated from ordinary social contact under
11 circumstances which indicate emotional or social deprivation.

12 A child shall not be considered abused or neglected pursuant to
13 paragraph (7) of subsection c. of this section if the acts or omissions
14 described therein occur in a day school as defined in this section.

15 No child who in good faith is under treatment by spiritual means
16 alone through prayer in accordance with the tenets and practices of a
17 recognized church or religious denomination by a duly accredited
18 practitioner thereof shall for this reason alone be considered to be
19 abused or neglected.

20 d. "Law guardian" means an attorney admitted to the practice of
21 law in this State, regularly employed by the Office of the Public
22 Defender or appointed by the court, and designated under this act to
23 represent minors in alleged cases of child abuse or neglect and in
24 termination of parental rights proceedings.

25 e. "Attorney" means an attorney admitted to the practice of law in
26 this State who shall be privately retained; or, in the instance of an
27 indigent parent or guardian, an attorney from the Office of the Public
28 Defender or an attorney appointed by the court who shall be appointed
29 in order to avoid conflict between the interests of the child and the
30 parent or guardian in regard to representation.

31 f. "Division" means the Division of **[Youth and Family Services]**
32 Child Protection and Permanency in the Department of Human
33 Services unless otherwise specified.

34 g. "Institution" means a public or private facility in the State which
35 provides children with out of home care, supervision or maintenance.
36 Institution includes, but is not limited to, a correctional facility,
37 detention facility, treatment facility, day care center, residential school,
38 shelter and hospital.

39 h. "Day school" means a public or private school which provides
40 general or special educational services to day students in grades
41 kindergarten through 12. Day school does not include a residential
42 facility, whether public or private, which provides care on a 24-hour
43 basis.

44 (cf: P.L.1999, c.53, s.55)

45

46 44. Section 7 of P.L.1974, c.119 (C.9:6-8.27) is amended to read

1 as follows:

2 7. a. A police officer or an agency or institution or individual may
3 temporarily remove a child from the place where he is residing with
4 the consent of his parent or other person legally responsible for his
5 care, if, there is reasonable cause to suspect that the child's life or
6 health is in imminent danger. If the child is not returned within 3
7 working days from the date of removal, the procedure required
8 pursuant to this act shall be applied immediately.

9 b. However, if the [Division of Youth and Family Services]
10 division removes a child with the written consent of the parent or
11 guardian, the proceedings under this act shall not apply, unless the
12 division files a complaint to commence proceedings under this act.
13 (cf: P.L.1977, c.209, s.6)

14

15 45. Section 8 of P.L.1974, c.119 (C.9:6-8.28) is amended to read
16 as follows:

17 8. Preliminary order of court before preliminary hearing held.

18 a. The Superior Court, Chancery Division, Family Part may enter
19 an order, whereby the safety of the child shall be of paramount
20 concern, directing the temporary removal of a child from the place
21 where he is residing before a preliminary hearing under this act, if (1)
22 the parent or other person legally responsible for the child's care is
23 absent or, though present, was asked and refused to consent to the
24 temporary removal of the child and was informed of an intent to apply
25 for any order under this section; and (2) the child appears so to suffer
26 from the abuse or neglect of his parent or guardian that his immediate
27 removal is necessary to avoid imminent danger to the child's life, safety
28 or health; and (3) there is not enough time to hold a preliminary
29 hearing.

30 b. The order shall specify the facility to which the child is to be
31 brought.

32 c. The Family Part may enter an order authorizing a physician or
33 hospital to provide emergency medical or surgical procedures before
34 a preliminary hearing is held under this act if (1) such procedures are
35 necessary to safeguard the life or health of the child; and (2) there is
36 not enough time to hold a preliminary hearing under section 11 hereof.

37 d. Any person who originates a proceeding pursuant to section 14
38 of this act may apply for through the [Division of Youth and Family
39 Services] division or the court on its own motion may issue, an order
40 of temporary removal. The division shall make every reasonable effort
41 to inform the parent or guardian of any such application, confer with
42 a person wishing to make such an application and make such inquiries
43 as will aid the court in disposing of such application. Within 24 hours
44 the [Division of Youth and Family Services] division shall report such
45 application to the central registry of the division.

46 e. Any person acting under the authority of this act may request

1 and shall receive appropriate assistance from local and State law
2 enforcement officials.

3 (cf: P.L.1999, c.53, s. 8)

4
5 46. Section 9 of P.L.1974, c.119 (C.9:6-8.29) is amended to read
6 as follows:

7 9. a. A police officer or a designated employee of the Probation
8 Division or a designated employee of the division may remove a child
9 from the place where he is residing, or any such person or any
10 physician treating such child may keep a child in his custody without
11 an order pursuant to section 8 of P.L.1974, c.119 (C.9:6-8.28) and
12 without the consent of the parent or guardian regardless of whether
13 the parent or guardian is absent, if the child is in such condition that
14 his continuance in said place or residence or in the care and custody
15 of the parent or guardian presents an imminent danger to the child's
16 life, safety or health, and there is insufficient time to apply for a court
17 order pursuant to section 8 of P.L.1974, c.119 (C.9:6-8.28), or any
18 physician or hospital treating such child may keep a child in custody
19 pursuant to P.L.1973, c.147 (C.9:6-8.16 et seq.). The [Division of
20 Youth and Family Services] division shall not be required to provide
21 reasonable efforts to prevent placement if removal of the child is
22 necessary due to imminent danger to the child's life, safety or health in
23 accordance with section 24 of P.L. 1999, c.53 (C.30:4C-11.2).

24 b. If a person authorized by this section removes or keeps custody
25 of a child, he shall (1) inform the division immediately; (2) bring the
26 child immediately to a place designated by the division for this
27 purpose, and (3) make every reasonable effort to inform the parent or
28 guardian of the facility to which he has brought the child.

29 c. Any person or institution acting in good faith in the removal or
30 keeping of a child pursuant to this section shall have immunity from
31 any liability, civil or criminal, that might otherwise be incurred or
32 imposed as a result of such removal or keeping.

33 d. Any person acting under the authority of this act may request
34 and shall receive appropriate assistance from local and State law
35 enforcement officials.

36 (cf: P.L.1999, c.53, s.9)

37
38 47. Section 11 of P.L.1974, c.119 (C.9:6-8.31) is amended to read
39 as follows:

40 11. Preliminary orders after filing a complaint. a. In any case where
41 the child has been removed without court order, except where action
42 has been taken pursuant to P.L.1973, c.147 (C.9:6-8.16 et seq.) the
43 Superior Court, Chancery Division, Family Part shall hold a hearing on
44 the next court day, whereby the safety of the child shall be of
45 paramount concern, to determine whether the child's interests require
46 protection pending a final order of disposition. In any other case under

1 this act, any person who may originate a proceeding may apply for, or
2 the court, on its own motion, may order a hearing at any time after the
3 complaint is filed to determine, with the safety of the child of
4 paramount concern, whether the child's interests require protection
5 pending a final order of disposition.

6 b. Upon such hearing, if the court finds that continued removal is
7 necessary to avoid an ongoing risk to the child's life, safety or health,
8 it shall affirm the removal of the child to an appropriate place or place
9 him in the custody of a suitable person.

10 If the court determines that removal of the child by a physician,
11 police officer, designated employee of the Probation Division or
12 designated employee of the [Division of Youth and Family Services]
13 division was necessary due to imminent danger to the child's life,
14 safety or health, the court shall find that the [Division of Youth and
15 Family Services] division was not required to provide reasonable
16 efforts to prevent placement of the child in accordance with section 24
17 of P.L.1999, c.53 (C.30:4C-11.2).

18 c. Upon such hearing the court may, for good cause shown, issue
19 a preliminary order of protection which may contain any of the
20 provisions authorized on the making of an order of protection under
21 section 35 of P.L.1974, c.119 (C.9:6-8.55).

22 d. Upon such hearing, the court may, for good cause shown,
23 release the child to the custody of his parent or guardian from whose
24 custody or care the child was removed, pending a final order of
25 disposition, in accord with section 33 of P.L.1974, c.119 (C.9:6-8.53).

26 e. Upon such hearing, the court may authorize a physician or
27 hospital to provide medical or surgical procedures if such procedures
28 are necessary to safeguard the child's life or health.

29 f. If the court grants or denies a preliminary order requested
30 pursuant to this section, it shall state the grounds for such decision.

31 g. In all cases involving abuse or neglect the court shall order an
32 examination of the child by a physician appointed or designated for the
33 purpose by the division. As part of such examination, the physician
34 shall arrange to have color photographs taken as soon as practical of
35 any areas of trauma visible on such child and may if indicated, arrange
36 to have a radiological examination performed on the child. The
37 physician, on the completion of such examination, shall forward the
38 results thereof together with the color photographs to the court
39 ordering such examination.

40 (cf: P.L.1999, c.53, s.10)

41
42 48. Section 1 of P.L.1977, c.210 (C.9:6-8.36a) is amended to read
43 as follows:

44 1. The Division of [Youth and Family Services] Child Protection
45 and Permanency shall immediately report all instances of suspected
46 child abuse and neglect, as defined by regulations, to the county

1 prosecutor of the county in which the child resides. Said regulations
2 shall be developed jointly by the division and the county prosecutors,
3 approved by the Attorney General, and promulgated by the
4 Commissioner of the Department of Human Services.

5 (cf: P.L.1977, c.210, s.1)

6
7 49. Section 1 of P.L.1997, c.62 (C.9:6-8.40a) is amended to read
8 as follows:

9 1. a. The Division of [Youth and Family Services] Child Protection
10 and Permanency in the Department of Human Services shall expunge
11 from its records all information relating to a report, complaint or
12 allegation of an incident of child abuse or neglect with respect to
13 which the division has determined, based upon its investigation
14 thereof, that the report, complaint or allegation of the incident was
15 unfounded.

16 b. For purposes of this act, "unfounded" means there is no concern
17 on the part of the division that the safety or welfare of the child is at
18 risk.

19 The process of making a determination of an unfounded report,
20 complaint or allegation of an incident of child abuse or neglect shall be
21 further defined in regulations promulgated by the department pursuant
22 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
23 et seq.).

24 (cf: P.L.1997, c.62, s.1)

25
26 50. Section 1 of P.L.1998, c.127 (C.9:6-8.58a) is amended to read
27 as follows:

28 1. When a child is placed in the custody of a relative or other
29 suitable person or the Division of [Youth and Family Services] Child
30 Protection and Permanency pursuant to section 34 of P.L.1974, c.119
31 (C.9:6-8.54), because of a finding of abuse or neglect, the Superior
32 Court, Chancery Division, Family Part shall order the parent and,
33 when appropriate, any other adult domiciled in the home to undergo
34 substance abuse assessment, when necessary. If the assessment reveals
35 positive evidence of substance abuse, the court shall require the parent
36 and other adult, when appropriate, to demonstrate that he is receiving
37 treatment and complying with the treatment program for the substance
38 abuse problem before the child is returned to the parental home.

39 (cf: P.L.1998, c.127, s.1)

40
41 51. Section 8 of P.L.1987, c.341 (C.9:6-8.72a) is amended to read
42 as follows:

43 8. The Commissioner of [the Department of] Education shall, in
44 cooperation and consultation with the Commissioner of [the
45 Department of] Human Services, adopt rules and regulations, pursuant
46 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1

et seq.), concerning the relationship, rights and responsibilities of the Division of [Youth and Family Services] Child Protection and Permanency in the Department of Human Services and local school districts regarding the reporting and investigation of allegations of child abuse.

(cf: P.L.1987, c.341, s.8.)

52. Section 2 of P.L.1994, c.119 (C.9:6-8.75) is amended to read as follows:

2. There is established the "New Jersey Task Force on Child Abuse and Neglect." The purpose of the task force is to study and develop recommendations regarding the most effective means of improving the quality and scope of child protective services provided or supported by State government, including a review of the practices and policies utilized by the Division of [Youth and Family Services] Child Protection and Permanency in the Department of Human Services in order to optimize coordination of child abuse-related services and investigations, promote the safety of children at risk of abuse or neglect, and ensure a timely determination with regard to reports of alleged child abuse.

(cf: P.L.1994, c.119, s.2)

53. Section 2 of P.L.1997, c.175 (9:6-8.84) is amended to read as follows:

2. As used in this act:

"Board" means the Child Fatality and Near Fatality Review Board established under P.L.1997, c.175 (C.9:6-8.83 et al.).

"Child" means any person under the age of 18.

"Commissioner" means the Commissioner of Human Services.

"Division" means the Division of [Youth and Family Services] Child Protection and Permanency in the Department of Human Services.

"Near fatality" means a case in which a child is in serious or critical condition, as certified by a physician.

"Panel" means a citizen review panel as established under P.L.1997, c.175 (C.9:6-8.83 et al.).

"Parent or guardian" means a person defined pursuant to section 1 of P.L.1974, c.119 (C.9:6-8.21) who has the responsibility for the care, custody or control of a child or upon whom there is a legal duty for such care.

"Reasonable efforts" means attempts by an agency authorized by the Division of [Youth and Family Services] Child Protection and Permanency to assist the parents in remedying the circumstances and conditions that led to the placement of the child and in reinforcing the family structure, as defined in section 7 of P.L.1991, c.275 (C.30:4C-15.1).

1 "Sexual abuse" means contacts or actions between a child and a
2 parent or caretaker for the purpose of sexual stimulation of either that
3 person or another person. Sexual abuse includes:

4 a. the employment, use, persuasion, inducement, enticement or
5 coercion of any child to engage in, or assist any other person to
6 engage in, any sexually explicit conduct or simulation of such conduct;

7 b. sexual conduct including molestation, prostitution, other forms
8 of sexual exploitation of children or incest; or

9 c. sexual penetration and sexual contact as defined in N.J.S.2C:14-1
10 and a prohibited sexual act as defined in N.J.S.2C:24-4.

11 "Significant bodily injury" means a temporary loss of the
12 functioning of any bodily member or organ or temporary loss of any
13 one of the five senses.

14 "Withholding of medically indicated treatment" means the failure to
15 respond to a child's life-threatening conditions by providing treatment,
16 including appropriate nutrition, hydration, and medication which, in
17 the treating physician's reasonable judgment, will most likely be
18 effective in ameliorating or correcting all such conditions. The term
19 does not include the failure to provide treatment, other than
20 appropriate nutrition, hydration, or medication to a child when, in the
21 treating physician's reasonable medical judgment:

22 a. the child is chronically and irreversibly comatose;

23 b. the provision of such treatment would merely prolong dying, not
24 be effective in ameliorating or correcting all of the child's
25 life-threatening conditions, or otherwise be futile in terms of the
26 survival of the child; or

27 c. the provision of such treatment would be virtually futile in terms
28 of the survival of the child and the treatment itself under such
29 circumstances would be inhumane.

30 (cf: P.L.1999, c.53, s.16)

31

32 54. Section 7 of P.L.1997, c.175 (C.9:6-8.89) is amended to read
33 as follows:

34 7. a. The board shall consist of 13 members as follows: the
35 Commissioner of Human Services, the Commissioner of Health and
36 Senior Services, the Director of the Division of [Youth and Family
37 Services] Child Protection and Permanency in the Department of
38 Human Services, the Attorney General, the Superintendent of the State
39 Police, or their designees, the State Medical Examiner, and the
40 Chairperson or Executive Director of the New Jersey Task Force on
41 Child Abuse and Neglect, who shall serve ex officio; and six public
42 members appointed by the Governor, one of whom shall be a
43 representative of the New Jersey Prosecutors' Association, one of
44 whom shall be a Law Guardian, one of whom shall be a pediatrician
45 with expertise in child abuse and neglect, one of whom shall be a
46 psychologist with expertise in child abuse and neglect, one of whom

1 shall be a social work educator with experience and expertise in the
2 area of child abuse or a related field and one of whom shall have
3 expertise in substance abuse.

4 b. The public members of the board shall serve for three-year
5 terms. Of the public members first appointed, three shall serve for a
6 period of two years, and three shall serve for a term of three years.
7 They shall serve without compensation but shall be eligible for
8 reimbursement for necessary and reasonable expenses incurred in the
9 performance of their official duties and within the limits of funds
10 appropriated for this purpose. Vacancies in the membership of the
11 board shall be filled in the same manner as the original appointments
12 were made.

13 c. The Governor shall appoint a public member to serve as
14 chairperson of the board who shall be responsible for the coordination
15 of all activities of the board and who shall provide the technical
16 assistance needed to execute the duties of the board.

17 d. The board is entitled to call to its assistance and avail itself of
18 the services of employees of any State, county or municipal
19 department, board, bureau, commission or agency as it may require
20 and as may be available for the purposes of reviewing a case pursuant
21 to the provisions of P.L.1997, c.175 (C.9:6-8.83 et al.). The board
22 may also seek the advice of experts, such as persons specializing in the
23 fields of pediatric, radiological, neurological, psychiatric, orthopedic
24 and forensic medicine; nursing; psychology; social work; education;
25 law enforcement; family law; substance abuse; child advocacy or other
26 related fields, if the facts of a case warrant additional expertise.
27 (cf: P.L.1997, c.175, s.7)

28

29 55. Section 2 of P.L.1998, c.19 (C.9:6-8.100) is amended to read
30 as follows:

31 2. Each center shall demonstrate a multidisciplinary approach to
32 identifying and responding to child abuse and neglect. The center staff
33 shall include, at a minimum, a pediatrician, a consulting psychiatrist,
34 a psychologist and a social worker who are trained to evaluate and
35 treat children who have been abused or neglected and their families.
36 Each center shall establish a liaison with the district office of the
37 Division of [Youth and Family Services] Child Protection and
38 Permanency in the Department of Human Services and the
39 prosecutor's office from the county in which the child who is
40 undergoing evaluation and treatment resides. At least one member of
41 the staff shall also have an appropriate professional credential or
42 significant training and experience in the identification and treatment
43 of substance abuse.

44 Each center shall develop an intake, referral and case tracking
45 process which assists the division and prosecutor's office in assuring
46 that child victims receive appropriate and timely diagnostic and

1 treatment services.

2 (cf: P.L.1998, c.19, s.2)

3

4 56. Section 4 of P.L.1998, c.19 (C.9:6-8.102) is amended to read
5 as follows:

6 4. Services provided by the center's staff shall include, but not be
7 limited to:

8 a. Providing psychological and medical evaluation and treatment
9 of the child, counseling for family members and substance abuse
10 assessment and mental health and substance abuse counseling for the
11 parents or guardians of the child;

12 b. Providing referral for appropriate social services and medical
13 care;

14 c. Providing testimony regarding alleged child abuse or neglect at
15 judicial proceedings;

16 d. Providing treatment recommendations for the child and mental
17 health and substance abuse treatment recommendations for his family,
18 and providing mental health and substance abuse treatment
19 recommendations for persons convicted of child abuse or neglect;

20 e. Receiving referrals from the Division of [Youth and Family
21 Services] Child Protection and Permanency and the county
22 prosecutor's office and assisting them in any investigation of child
23 abuse or neglect;

24 f. Providing educational material and seminars on child abuse and
25 neglect and the services the center provides to children, parents,
26 teachers, law enforcement officials, the judiciary, attorneys and other
27 citizens.

28 (cf: P.L.1998, c.19, s.4)

29

30 57. Section 6 of P.L.1998, c.19 (C.9:6-8.104) is amended to read
31 as follows:

32 6. Regional centers shall act as a resource in the establishment and
33 maintenance of county-based multidisciplinary teams which work in
34 conjunction with the county prosecutor and the Division of [Youth
35 and Family Services] Child Protection and Permanency in the
36 investigation of child abuse and neglect in the county in which the
37 child who is undergoing evaluation and treatment resides. The
38 Commissioner of Human Services, in consultation with the New Jersey
39 Task Force on Child Abuse and Neglect, shall establish standards for
40 a county team. The county team shall consist of representatives of the
41 following disciplines: law enforcement; child protective services;
42 mental health; substance abuse identification and treatment; and
43 medicine; and, in those counties where a child advocacy center has
44 been established, shall include a staff representative of a child
45 advocacy center, all of whom have been trained to recognize child
46 abuse and neglect. The county team shall provide: facilitation of the

1 investigation, management and disposition of cases of criminal child
2 abuse and neglect; referral services to the regional diagnostic center;
3 appropriate referrals to medical and social service agencies;
4 information regarding the identification and treatment of child abuse
5 and neglect; and appropriate follow-up care for abused children and
6 their families.

7 As used in this section, "child advocacy center" means a
8 county-based center which meets the standards for a county team
9 established by the commissioner pursuant to this section and
10 demonstrates a multidisciplinary approach in providing comprehensive,
11 culturally competent child abuse prevention, intervention and
12 treatment services to children who are victims of child abuse or
13 neglect.

14 (cf: P.L.2001, c.344, s.1)

15
16 58. Section 7 of P.L.1998, c.19 (C.9:6-8.105) is amended to read
17 as follows:

18 7. There is established a 15-member Diagnostic and Treatment
19 Advisory Council to oversee the programs of the regional centers, help
20 facilitate communications among the centers, county teams, law
21 enforcement officials and the Division of [Youth and Family
22 Services] Child Protection and Permanency, develop standards of care
23 for the treatment of child abuse, and help coordinate any research it
24 deems appropriate. The council shall consist of: the Commissioners
25 of the Departments of Human Services, Health and Senior Services
26 and Education, and the Attorney General, or their designees; the
27 Director of the Division of [Youth and Family Services] Child
28 Protection and Permanency; the directors of the four regional centers;
29 a physician; a social worker; a psychologist; a certified alcohol and
30 drug abuse counselor or other professional appropriately credentialed
31 to identify and treat substance abuse; an advocate for abused and
32 neglected children; and a person who has utilized the services of a
33 center. The Governor shall appoint the six public members of the
34 council, who shall serve as members for three years.

35 The advisory council shall report annually to the Governor and the
36 Legislature regarding the effectiveness of the regional centers and shall
37 make recommendations for improvements or changes.

38 (cf: P.L.1998, c.19, s.7)

39
40 59. Section 3 of P.L.1999, c.224 (C.9:12A-4) is amended to read
41 as follows:

42 3. As used in this act:

43 "Department" means the Department of Human Services.

44 "Division" means the Division of [Youth and Family Services]
45 Child Protection and Permanency in the Department of Human
46 Services.

1 "Homeless youth" means a person 21 years of age or younger who
2 is without shelter where appropriate care and supervision are available.
3 (cf: P.L.1999, c.224, s.3)

4
5 60. Section 1 of P.L.1995, c.34 (C.18A:6-7a) is amended to read
6 as follows:

7 1. When a complaint made against a school employee alleging child
8 abuse or neglect is investigated by the Division of [Youth and Family
9 Services] Child Protection and Permanency in the Department of
10 Human Services, the division shall notify the school district and the
11 employee of its findings. Upon receipt of a finding by the division that
12 such a complaint is unfounded, the school district shall remove any
13 references to the complaint and investigation by the division from the
14 employee's personnel records. A complaint made against a school
15 employee that has been classified as unfounded by the [Division of
16 Youth and Family Services] division shall not be used against the
17 employee for any purpose relating to employment, including but not
18 limited to, discipline, salary, promotion, transfer, demotion, retention
19 or continuance of employment, termination of employment or any right
20 or privilege relating to employment.

21 (cf: P.L.1995, c.34, s.1)

22
23 61. Section 3 of P.L.1996, c.138 (C.18A:7F-3) is amended to read
24 as follows:

25 3. As used in this act, unless the context clearly requires a different
26 meaning:

27 "Abbott district" means one of the 28 urban districts in district
28 factor groups A and B specifically identified in the appendix to
29 Raymond Abbott, et al. v. Fred G. Burke, et al. decided by the New
30 Jersey Supreme Court on June 5, 1990 (119 N.J.287, 394) or any
31 other district classified as a special needs district under the "Quality
32 Education Act of 1990," P.L.1990, c.52 (C.18A:7D-1 et al.);

33 "Bilingual education pupil" means a pupil enrolled in a program of
34 bilingual education or in an English as a second language program
35 approved by the State Board of Education;

36 "Budgeted local share" means the sum of designated general fund
37 balance, miscellaneous revenues estimated consistent with GAAP, and
38 that portion of the district's local tax levy contained in the T&E budget
39 certified for taxation purposes;

40 "Capital outlay" means capital outlay as defined in GAAP;

41 "Commissioner" means the Commissioner of Education;

42 "Concentration of low-income pupils" shall be based on prebudget
43 year pupil data and means, for a school district or a county vocational
44 school district, the number of low-income pupils among those counted
45 in modified district enrollment, divided by modified district enrollment.
46 For a school, it means the number of low-income pupils recorded in

1 the registers at that school, divided by the total number of pupils
2 recorded in the school's registers;

3 "CPI" means the average annual increase, expressed as a decimal,
4 in the consumer price index for the New York City and Philadelphia
5 areas during the fiscal year preceding the prebudget year as reported
6 by the United States Department of Labor;

7 "County special services school district" means any entity
8 established pursuant to article 8 of chapter 46 of Title 18A of the New
9 Jersey Statutes;

10 "County vocational school district" means any entity established
11 pursuant to article 3 of chapter 54 of Title 18A of the New Jersey
12 Statutes;

13 "County vocational school, special education services pupil" means
14 a pupil who is attending a county vocational school and who is
15 receiving specific services pursuant to chapter 46 of Title 18A of the
16 New Jersey Statutes;

17 "Debt service" means and includes payments of principal and
18 interest upon school bonds and other obligations issued to finance the
19 purchase or construction of school facilities, additions to school
20 facilities, or the reconstruction, remodeling, alteration, modernization,
21 renovation or repair of school facilities, including furnishings,
22 equipment, architect fees and the costs of issuance of such obligations
23 and shall include payments of principal and interest upon bonds
24 heretofore issued to fund or refund such obligations, and upon
25 municipal bonds and other obligations which the commissioner
26 approves as having been issued for such purposes. Debt service
27 pursuant to the provisions of P.L.1978, c.74 (C.18A:58-33.22 et seq.),
28 P.L.1971, c.10 (C.18A:58-33.6 et seq.) and P.L.1968, c.177
29 (C.18A:58-33.2 et seq.) is excluded;

30 "District factor group A district" means a school district, other than
31 an Abbott district or a school district in which the equalized valuation
32 per pupil is more than twice the average Statewide equalized valuation
33 per pupil and in which resident enrollment exceeds 2,000 pupils, which
34 based on the 1990 federal census data is included within the
35 Department of Education's district factor group A;

36 "District income" for the 1997-98 school year means the aggregate
37 income of the residents of the taxing district or taxing districts, based
38 upon data provided by the Bureau of the Census in the United States
39 Department of Commerce for 1989. Beginning with the 1998-99
40 school year and thereafter, district income means the aggregate income
41 of the residents of the taxing district or taxing districts, based upon
42 data provided by the Division of Taxation in the New Jersey
43 Department of the Treasury and contained on the New Jersey State
44 Income Tax forms for the calendar year ending prior to the prebudget
45 year. The commissioner may supplement data contained on the State
46 Income Tax forms with data available from other State or federal

1 agencies in order to better correlate the data to that collected on the
2 federal census. With respect to regional districts and their constituent
3 districts, however, the district income as described above shall be
4 allocated among the regional and constituent districts in proportion to
5 the number of pupils resident in each of them;

6 "Estimated minimum equalized tax rate" for a school district means
7 the district's required local share divided by its equalized valuation; for
8 the State it means the sum of the required local shares of all school
9 districts in the State, excluding county vocational and county special
10 services school districts as defined pursuant to this section, divided by
11 the sum of the equalized valuations for all the school districts in the
12 State except those for which there is no required local share;

13 "Equalized valuation" means the equalized valuation of the taxing
14 district or taxing districts, as certified by the Director of the Division
15 of Taxation on October 1, or subsequently revised by the tax court by
16 January 15, of the prebudget year. With respect to regional districts
17 and their constituent districts, however, the equalized valuations as
18 described above shall be allocated among the regional and constituent
19 districts in proportion to the number of pupils resident in each of them.
20 In the event that the equalized table certified by the director shall be
21 revised by the tax court after January 15 of the prebudget year, the
22 revised valuations shall be used in the recomputation of aid for an
23 individual school district filing an appeal, but shall have no effect upon
24 the calculation of the property value multiplier, Statewide equalized
25 valuation per pupil, estimated minimum equalized tax rate for the
26 State, or Statewide average equalized school tax rate;

27 "GAAP" means the generally accepted accounting principles
28 established by the Governmental Accounting Standards Board as
29 prescribed by the State board pursuant to N.J.S.18A:4-14;

30 "Household income" means income as defined in 7 CFR 245.2 and
31 245.6 or any subsequent superseding federal law or regulation;

32 "Lease purchase payment" means and includes payments of
33 principal and interest for lease purchase agreements in excess of five
34 years approved pursuant to subsection f. of N.J.S.18A:20-4.2 to
35 finance the purchase or construction of school facilities, additions to
36 school facilities, or the reconstruction, remodeling, alteration,
37 modernization, renovation or repair of school facilities, including
38 furnishings, equipment, architect fees and issuance costs. Approved
39 lease purchase agreements in excess of five years shall be accorded the
40 same accounting treatment as school bonds;

41 "Low-income pupils" means those pupils from households with a
42 household income at or below the most recent federal poverty
43 guidelines available on October 15 of the prebudget year multiplied by
44 1.30;

45 "Minimum permissible T&E budget" means the sum of a district's
46 core curriculum standards aid, and required local share calculated

1 pursuant to sections 5, 14 and 15 of this act;

2 "Modified district enrollment" means the number of pupils other
3 than preschool pupils, evening school pupils, post-graduate pupils, and
4 post-secondary vocational pupils who, on the last school day prior to
5 October 16, are enrolled in the school district or county vocational
6 school district; or are resident in the school district or county
7 vocational school district and are: (1) receiving home instruction, (2)
8 enrolled in an approved private school for the handicapped, (3)
9 enrolled in a regional day school, (4) enrolled in a county special
10 services school district, (5) enrolled in an educational services
11 commission including an alternative high school program operated by
12 an educational services commission, (6) enrolled in a State college
13 demonstration school, (7) enrolled in the Marie H. Katzenbach School
14 for the Deaf, or (8) enrolled in an alternative high school program in
15 a county vocational school. Modified district enrollment shall be
16 based on the prebudget year count for the determination of
17 concentration of low-income pupils, and shall be projected to the
18 current year and adjusted pursuant to section 5 of this act when used
19 in the calculation of aid;

20 "Net budget" unless otherwise stated in this act, means the sum of
21 the net T&E budget and the portion of the district's local levy that is
22 above the district's maximum T & E budget;

23 "Net T&E budget" means the sum of the T&E program budget,
24 early childhood program aid, demonstrably effective program aid,
25 instructional supplement aid, transportation aid, and categorical
26 program aid received pursuant to sections 19 through 22, 28, and 29
27 of this act;

28 "Prebudget year" means the school fiscal year preceding the year in
29 which the school budget is implemented;

30 "Prebudget year equalized tax rate" means the amount calculated by
31 dividing the district's general fund levy for the prebudget year by its
32 equalized valuation certified in the year prior to the prebudget year;

33 "Prebudget year net budget" for the 1997-98 school year means the
34 sum of the foundation aid, transition aid, transportation aid, special
35 education aid, bilingual education aid, aid for at-risk pupils,
36 technology aid, and county vocational program aid received by a
37 school district or county vocational school district in the 1996-97
38 school year pursuant to P.L.1996, c.42, and the district's local levy for
39 the general fund;

40 "Report on the Cost of Providing a Thorough and Efficient
41 Education" or "Report" means the report issued by the Governor
42 pursuant to section 4 of this act;

43 "Resident enrollment" means the number of pupils other than
44 preschool pupils, post-graduate pupils, and post-secondary vocational
45 pupils who, on the last school day prior to October 16 of the current
46 school year, are residents of the district and are enrolled in: (1) the

1 public schools of the district, excluding evening schools, (2) another
2 school district, other than a county vocational school district in the
3 same county on a full-time basis, or a State college demonstration
4 school or private school to which the district of residence pays tuition,
5 or (3) a State facility in which they are placed by the district; or are
6 residents of the district and are: (1) receiving home instruction, or (2)
7 in a shared-time vocational program and are regularly attending a
8 school in the district and a county vocational school district. In
9 addition, resident enrollment shall include the number of pupils who,
10 on the last school day prior to October 16 of the prebudget year, are
11 residents of the district and in a State facility in which they were
12 placed by the State. Pupils in a shared-time vocational program shall
13 be counted on an equated full-time basis in accordance with
14 procedures to be established by the commissioner. Resident
15 enrollment shall include regardless of nonresidence, the enrolled
16 children of teaching staff members of the school district or county
17 vocational school district who are ~~[perpermitted]~~ permitted, by
18 contract or local district policy, to enroll their children in the
19 educational program of the school district or county vocational school
20 district without payment of tuition. Handicapped children between
21 three and five years of age and receiving programs and services
22 pursuant to N.J.S.18A:46-6 shall be included in the resident enrollment
23 of the district;

24 "School district" means any local or regional school district
25 established pursuant to chapter 8 or chapter 13 of Title 18A of the
26 New Jersey Statutes;

27 "School enrollment" means the number of pupils other than
28 preschool pupils, evening school pupils, post-graduate pupils, and
29 post-secondary vocational pupils who, on the last school day prior to
30 October 16 of the current school year, are recorded in the registers of
31 the school;

32 "Special education services pupils" means a pupil receiving specific
33 services pursuant to chapter 46 of Title 18A of the New Jersey
34 Statutes;

35 "Spending growth limitation" means the annual rate of growth
36 permitted in the net budget of a school district, county vocational
37 school district or county special services school district as measured
38 between the net budget of the prebudget year and the net budget of the
39 budget year as calculated pursuant to subsection d. of section 5 of this
40 act;

41 "Stabilization aid growth limit" means 10% or the rate of growth in
42 the district's projected resident enrollment over the prebudget year,
43 whichever is greater. For the 1997-98 school year, this means 8% or
44 one-half the rate of growth in the district's projected resident
45 enrollment and preschool enrollment between the October 1991
46 enrollment report as contained on the district's Application for State

1 School Aid for 1992-93 and the 1997-98 school year, whichever is
2 greater. For the 1998-99 and 1999-2000 school years, this means the
3 greatest of the following: 10%, one-half the district's rate of growth
4 in projected resident enrollment and preschool enrollment over the
5 October 1991 enrollment report as contained on the district's
6 Application for State School Aid for 1992-93, or the district's
7 projected rate of growth in resident enrollment over the prebudget
8 year;

9 "State facility" means a State developmental center; a [State
10 Division of Youth and Family Services'] Department of Human
11 Services residential center; a State residential mental health center; a
12 [DHS] Department of Human Services Regional Day School; a State
13 training school / Secure care facility; a State juvenile community
14 program; a juvenile detention center or a boot camp under the
15 supervisory authority of the Juvenile Justice Commission pursuant to
16 P.L.1995, c.284 (C.52:17B-169 et seq.); or an institution operated by
17 or under contract with the Department of Corrections or Human
18 Services, or the Juvenile Justice Commission;

19 "Statewide average equalized school tax rate" means the amount
20 calculated by dividing the general fund tax levy for all school districts,
21 which excludes county vocational school districts and county special
22 services school districts as defined pursuant to this section, in the
23 State for the prebudget year by the equalized valuations certified in the
24 year prior to the prebudget year of all taxing districts in the State
25 except taxing districts for which there are no school tax levies;

26 "Statewide equalized valuation per pupil" means the equalized
27 valuations of all taxing districts having resident enrollment in the
28 State, divided by the resident enrollment for the State;

29 "T&E amount" means the cost per elementary pupil of delivering
30 the core curriculum content standards and extracurricular and
31 cocurricular activities necessary for a thorough regular education
32 under the assumptions of reasonableness and efficiency contained in
33 the Report on the Cost of Providing a Thorough and Efficient
34 Education;

35 "T&E flexible amount" means the dollar amount which shall be
36 applied to the T&E amount to determine the T&E range;

37 "T&E program budget" means the sum of core curriculum
38 standards aid, supplemental core curriculum standards aid,
39 stabilization aid, designated general fund balance, miscellaneous local
40 general fund revenue and that portion of the district's local levy that
41 supports the district's T&E budget;

42 "T&E range" means the range of regular education spending which
43 shall be considered thorough and efficient. The range shall be
44 expressed in terms of T&E budget spending per elementary pupil, and
45 shall be delineated by alternatively adding to and subtracting from the
46 T&E amount the T&E flexible amount;

1 "Total Statewide income" means the sum of the district incomes of
2 all taxing districts in the State.
3 (cf: P.L.1999, c.413, s.11)
4

5 62. Section 19 of P.L.1996, c.138 (C.18A:7F-19) is amended to
6 read as follows:

7 19. a. Special education categorical aid for each school district and
8 county vocational school district shall be calculated for the 1997-98
9 school year as follows:

10 Tier I is the number of pupils classified for other than speech
11 correction services resident in the district which receive related
12 services including, but not limited to, occupational therapy, physical
13 therapy, speech and counseling. Aid shall equal 0.0223 of the T&E
14 amount rounded to the nearest whole dollar for each of the four
15 service categories provided per classified pupil.

16 Tier II is the number of pupils resident in the district meeting the
17 classification definitions for perceptually impaired, neurologically
18 impaired, educable mentally retarded and preschool handicapped; all
19 classified pupils in shared time county vocational programs in a county
20 vocational school which does not have a child study team receiving
21 services pursuant to chapter 46 of Title 18A of the New Jersey
22 Statutes; and nonclassified pupils in State training schools or secure
23 care facilities. For the purpose of calculating State aid for 1997-98,
24 each district, other than a county vocational school district, shall have
25 its pupil count for perceptually impaired reduced by perceptually
26 impaired classifications in excess of one standard deviation above the
27 State average classification rate at December 1995 or 9.8 percent of
28 the district's resident enrollment. The perceptually impaired limitation
29 shall be phased down to the State average of the prebudget year over
30 a five-year period by adjusting the standard deviation as follows: 75
31 percent in 1998-99, 50 percent in 1999-2000, 25 percent in 2000-2001
32 and the State average in year five. No reduction in aid shall be
33 assessed against any district in which the perceptually impaired
34 classification rate is 6.5% or less of resident enrollment. Aid shall
35 equal 0.4382 of the T&E amount rounded to the nearest whole dollar
36 for each student meeting the Tier II criteria.

37 The commissioner shall develop a system to provide that each
38 school district submits data to the department on the number of the
39 district's pupils with a classification definition of perceptually impaired
40 who are enrolled in a county vocational school. Such pupils shall be
41 counted in the district of residence's resident enrollment for the
42 purpose of calculating the limit on perceptually impaired classifications
43 for Tier II State aid.

44 Tier III is the number of classified pupils resident in the district in
45 categories other than speech correction services, perceptually
46 impaired, neurologically impaired, educable mentally retarded, socially

1 maladjusted, preschool handicapped, and who do not meet the criteria
2 of Tier IV, intensive services; and nonclassified pupils in juvenile
3 community programs. Aid shall equal 0.8847 of the T&E amount for
4 each pupil meeting the Tier III criteria.

5 Tier IV is the number of classified pupils resident in the district
6 receiving intensive services. For 1997-98, intensive services are
7 defined as those provided in a county special services school district
8 and services provided for pupils who meet the classification definitions
9 for autistic, chronically ill, day training eligible, or visually
10 handicapped, or are provided for pupils who meet the classification
11 definition for multiply handicapped and are in a private school for the
12 handicapped, educational services commission, or jointure commission
13 placement in the 1996-97 school year. The commissioner shall collect
14 data and conduct a study to determine intensive service criteria and the
15 appropriate per pupil cost factor to be universally applied to all service
16 settings, beginning in the 1998-99 school year. Aid shall equal 1.2277
17 of the T&E amount for each pupil meeting the Tier IV criteria.

18 Classified pupils in Tiers II through IV shall be eligible for Tier I
19 aid. Classified pupils shall be eligible to receive aid for up to four
20 services under Tier I.

21 For the 1998-99 school year, these cost factors shall remain in
22 effect and special education aid growth shall be limited by the CPI
23 growth rate applied to the T&E amount and changes in classified pupil
24 counts. For subsequent years, the additional cost factors shall be
25 established biennially in the Report on the Cost of Providing a
26 Thorough and Efficient Education.

27 For the purposes of this section, classified pupil counts shall include
28 pupils attending State developmental centers, [DHS] Department of
29 Human Services Regional Day Schools, [State Division of Youth and
30 Family Services'] Department of Human Services residential centers,
31 State residential mental health centers, and institutions operated by or
32 under contract with the Department of Human Services. Classified
33 pupils of elementary equivalent age shall include classified preschool
34 handicapped and kindergarten pupils.

35 b. In those instances in which the cost of providing education for
36 an individual classified pupil exceeds \$40,000:

37 (1) For costs in excess of \$40,000 incurred in the 2002-2003
38 through 2004-2005 school years, the district of residence shall, in
39 addition to any special education State aid to which the district is
40 entitled on behalf of the pupil pursuant to subsection a. of this section,
41 receive additional special education State aid as follows: (a) with
42 respect to the amount of any costs in excess of \$40,000 but less than
43 or equal to \$60,000, the additional State aid for the classified pupil
44 shall equal 60% of that amount; (b) with respect to the amount of any
45 costs in excess of \$60,000 but less than or equal to \$80,000, the
46 additional State aid for the classified pupil shall equal 70% of that

1 amount; and (c) with respect to the amount of any costs in excess of
2 \$80,000, the additional State aid for the classified pupil shall equal
3 80% of that amount; provided that in the case of an individual
4 classified pupil for whom additional special education State aid was
5 awarded to a district for the 2001-2002 school year, the amount of
6 such aid awarded annually to the district for that pupil for the
7 2002-2003, 2003-2004 or 2004-2005 school year shall not be less than
8 the amount for the 2001-2002 school year, except that if the district's
9 actual special education costs incurred for the pupil in the 2002-2003,
10 2003-2004 or 2004-2005 school year are reduced below the amount
11 of such costs for the pupil in the 2001-2002 school year, the amount
12 of aid shall be decreased by the amount of that reduction; and

13 (2) For costs in excess of \$40,000 incurred in the 2005-2006
14 school year and thereafter, a district shall receive additional special
15 education State aid equal to 100% of the amount of that excess.

16 A district, in order to receive funding pursuant to this subsection,
17 shall file an application with the department that details the expenses
18 incurred on behalf of the particular classified pupil for which the
19 district is seeking reimbursement. Additional State aid awarded for
20 extraordinary special education costs shall be recorded by the district
21 as revenue in the current school year and paid to the district in the
22 subsequent school year.

23 c. A school district may apply to the commissioner to receive
24 emergency special education aid for any classified pupil who enrolls in
25 the district prior to March of the budget year and who is in a
26 placement with a cost in excess of \$40,000. The commissioner may
27 debit from the student's former district of residence any special
28 education aid which was paid to that district on behalf of the student.

29 d. The department shall review expenditures of federal and State
30 special education aid by a district in every instance in which special
31 education monitoring identifies a failure on the part of the district to
32 provide services consistent with a pupil's individualized education
33 program.

34 (cf: P.L.2001, c.356, s.1)

35

36 63. N.J.S.18A:38-1 is amended to read as follows:

37 18A:38-1. Public schools shall be free to the following persons
38 over five and under 20 years of age:

39 a. Any person who is domiciled within the school district;

40 b. (1) Any person who is kept in the home of another person
41 domiciled within the school district and is supported by such other
42 person gratis as if he were such other person's own child, upon filing
43 by such other person with the secretary of the board of education of
44 the district, if so required by the board, a sworn statement that he is
45 domiciled within the district and is supporting the child gratis and will
46 assume all personal obligations for the child relative to school

1 requirements and that he intends so to keep and support the child
2 gratuitously for a longer time than merely through the school term,
3 and a copy of his lease if a tenant, or a sworn statement by his landlord
4 acknowledging his tenancy if residing as a tenant without a written
5 lease, and upon filing by the child's parent or guardian with the
6 secretary of the board of education a sworn statement that he is not
7 capable of supporting or providing care for the child due to a family
8 or economic hardship and that the child is not residing with the
9 resident of the district solely for the purpose of receiving a free public
10 education within the district. The statement shall be accompanied by
11 documentation to support the validity of the sworn statements,
12 information from or about which shall be supplied only to the board
13 and only to the extent that it directly pertains to the support or
14 nonsupport of the child. If in the judgment of the board of education
15 the evidence does not support the validity of the claim by the resident,
16 the board may deny admission to the child. The resident may contest
17 the board's decision to the commissioner within 21 days of the date of
18 the decision and shall be entitled to an expedited hearing before the
19 commissioner on the validity of the claim and shall have the burden of
20 proof by a preponderance of the evidence that the child is eligible for
21 a free education under the criteria listed in this subsection. The board
22 of education shall, at the time of its decision, notify the resident in
23 writing of his right to contest the board's decision to the commissioner
24 within 21 days. No child shall be denied admission during the
25 pendency of the proceedings before the commissioner. In the event
26 the child is currently enrolled in the district, the student shall not be
27 removed from school during the 21-day period in which the resident
28 may contest the board's decision nor during the pendency of the
29 proceedings before the commissioner. If in the judgment of the
30 commissioner the evidence does not support the claim of the resident,
31 he shall assess the resident tuition for the student prorated to the time
32 of the student's ineligible attendance in the school district. Tuition shall
33 be computed on the basis of 1/180 of the total annual per pupil cost to
34 the local district multiplied by the number of days of ineligible
35 attendance and shall be collected in the manner in which orders of the
36 commissioner are enforced. Nothing shall preclude a board from
37 collecting tuition from the resident, parent or guardian for a student's
38 period of ineligible attendance in the schools of the district where the
39 issue is not appealed to the commissioner;

40 (2) If the superintendent or administrative principal of a school
41 district finds that the parent or guardian of a child who is attending the
42 schools of the district is not domiciled within the district and the child
43 is not kept in the home of another person domiciled within the school
44 district and supported by him gratis as if the child was the person's
45 own child as provided for in paragraph (1) of this subsection, the
46 superintendent or administrative principal may apply to the board of

1 education for the removal of the child. The parent or guardian shall
2 be entitled to a hearing before the board and if in the judgment of the
3 board the parent or guardian is not domiciled within the district or the
4 child is not kept in the home of another person domiciled within the
5 school district and supported by him gratis as if the child was the
6 person's own child as provided for in paragraph (1) of this subsection,
7 the board may order the transfer or removal of the child from school.
8 The parent or guardian may contest the board's decision before the
9 commissioner within 21 days of the date of the decision and shall be
10 entitled to an expedited hearing before the commissioner and shall
11 have the burden of proof by a preponderance of the evidence that the
12 child is eligible for a free education under the criteria listed in this
13 subsection. The board of education shall, at the time of its decision,
14 notify the parent or guardian in writing of his right to contest the
15 decision within 21 days. No child shall be removed from school during
16 the 21-day period in which the parent may contest the board's decision
17 or during the pendency of the proceedings before the commissioner.
18 If in the judgment of the commissioner the evidence does not support
19 the claim of the parent or guardian, the commissioner shall assess the
20 parent or guardian tuition for the student prorated to the time of the
21 student's ineligible attendance in the schools of the district. Tuition
22 shall be computed on the basis of 1/180 of the total annual per pupil
23 cost to the local district multiplied by the number of days of ineligible
24 attendance and shall be collected in the manner in which orders of the
25 commissioner are enforced. Nothing shall preclude a board from
26 collecting tuition from the parent or guardian for a student's period of
27 ineligible attendance in the schools of the district where the issue is not
28 appealed to the commissioner;

29 The provisions of this section requiring proof of support, custody
30 or tenancy shall not apply to a person keeping a child in his home
31 whose parent or guardian is a member of the New Jersey National
32 Guard or a member of the reserve component of the armed forces of
33 the United States and who has been ordered into active military service
34 in any of the armed forces of the United States in time of war or
35 national emergency. In such a situation, the child shall be eligible to
36 enroll in the district in which he is being kept, and no tuition shall be
37 charged by the district. Following the return of the child's parent or
38 guardian from active military service, the child's eligibility for
39 enrollment without tuition in the district in which he or she is being
40 kept shall cease at the end of the current school year;

41 c. Any person who fraudulently allows a child of another person to
42 use his residence and is not the primary financial supporter of that
43 child and any person who fraudulently claims to have given up custody
44 of his child to a person in another district commits a disorderly persons
45 offense;

46 d. Any person whose parent or guardian, even though not

1 domiciled within the district, is residing temporarily therein, but any
2 person who has had or shall have his all-year-round dwelling place
3 within the district for one year or longer shall be deemed to be
4 domiciled within the district for the purposes of this section;

5 e. Any person for whom the Division of [Youth and Family
6 Services] Child Protection and Permanency in the Department of
7 Human Services is acting as guardian and who is placed in the district
8 by [said bureau] the division;

9 f. Any person whose parent or guardian moves from one school
10 district to another school district as a result of being homeless and
11 whose district of residence is determined pursuant to section 19 of
12 P.L.1979, c.207 (C.18A:7B-12).
13 (cf: P.L.1994, c.169, s.1)
14

15 64. Section 1 of P.L.1997, c.362 (C.18A:40A-7.1) is amended to
16 read as follows:

17 1. a. Except as provided by section 3 of P.L.1971, c.437
18 (C.9:6-8.10), if a public or private elementary or secondary school
19 pupil who is participating in a school-based drug and alcohol abuse
20 counseling program provides information during the course of a
21 counseling session in that program which indicates that the pupil's
22 parent or guardian or other person residing in the pupil's household is
23 dependent upon or illegally using a substance as that term is defined
24 in section 2 of P.L.1987, c.387 (C.18A:40A-9), that information shall
25 be kept confidential and may be disclosed only under the
26 circumstances expressly authorized under subsection b. of this section.

27 b. The information provided by a pupil pursuant to subsection a.
28 of this section may be disclosed:

29 (1) subject to the pupil's written consent, to another person or
30 entity whom the pupil specifies in writing in the case of a secondary
31 school pupil, or to a member of the pupil's immediate family or the
32 appropriate school personnel in the case of an elementary school pupil;

33 (2) pursuant to a court order;

34 (3) to a person engaged in a bona fide research purpose, except
35 that no names or other information identifying the pupil or the person
36 with respect to whose substance abuse the information was provided,
37 shall be made available to the researcher; or

38 (4) to the Division of [Youth and Family Services] Child
39 Protection and Permanency in the Department of Human Services or
40 to a law enforcement agency, if the information would cause a person
41 to reasonably suspect that the elementary or secondary school pupil or
42 another child may be an abused or neglected child as the terms are
43 used in R.S.9:6-1, or as the terms are defined in section 2 of P.L.1971,
44 c.437 (C.9:6-8.9), or section 1 of P.L.1974, c.119 (C.9:6-8.21).

45 c. Any disclosure made pursuant to paragraph (1) or (2) of
46 subsection b. of this section shall be limited to that information which

1 is necessary to carry out the purpose of the disclosure, and the person
2 or entity to whom the information is disclosed shall be prohibited from
3 making any further disclosure of that information without the pupil's
4 written consent. The disclosure shall be accompanied by a written
5 statement advising the recipient that the information is being disclosed
6 from records the confidentiality of which is protected by P.L.1997,
7 c.362 (C.18A:40A-7.1 et seq.), and that this law prohibits any further
8 disclosure of this information without the written consent of the
9 person from whom the information originated. Nothing in this act
10 shall be construed as prohibiting the Division of [Youth and Family
11 Services] Child Protection and Permanency in the Department of
12 Human Services or a law enforcement agency from using or disclosing
13 the information in the course of conducting an investigation or
14 prosecution. Nothing in this act shall be construed as authorizing the
15 violation of any federal law.

16 d. The prohibition on the disclosure of information provided by a
17 pupil pursuant to subsection a. of this section shall apply whether the
18 person to whom the information was provided believes that the person
19 seeking the information already has it, has other means of obtaining it,
20 is a law enforcement or other public official, has obtained a subpoena,
21 or asserts any other justification for the disclosure of this information.
22 (cf: P.L.1999, c.320)

23

24 65. R.S.26:3-31 is amended to read as follows:

25 26:3-31. The local board of health shall have power to pass, alter
26 or amend ordinances and make rules and regulations in regard to the
27 public health within its jurisdiction, for the following purposes:

28 a. To protect the public water supply and prevent the pollution of
29 any stream of water or well, the water of which is used for domestic
30 purposes, and to prevent the use of or to close any well, the water of
31 which is polluted or detrimental to the public health.

32 b. (1) To prohibit the cutting, sale or delivery of ice in any
33 municipality without obtaining a permit from the local board. No
34 person shall cut, sell or deliver ice in any municipality without
35 obtaining such permit.

36 (2) To refuse such permit or revoke any permit granted by it when
37 in its judgment the use of any ice cut, sold or delivered under the
38 permit would be detrimental to the public health. Upon the refusal or
39 revocation of a permit by the local board, an appeal may be taken to
40 the State department. Upon order of the State department a permit
41 shall be granted or the revocation set aside.

42 (3) To prohibit the importation, distribution or sale of any impure
43 ice which would be detrimental to the public health.

44 c. To license and regulate the sanitary conditions of hotels,
45 restaurants, cafes, and other public eating houses and to provide for
46 the posting of ratings or score cards setting forth the sanitary

1 condition of any public eating house after inspection of the same and
2 to post the rating or score card in some conspicuous or public place
3 in such eating house.

4 d. To compel any owner of property along the line of any sewer to
5 connect his house or other building therewith. This paragraph shall be
6 enforced by the local board within its jurisdiction and it shall by
7 ordinance provide a fine of \$25.00 to be imposed upon any person
8 who shall not comply with any order issued under the authority of this
9 paragraph, within 30 days after notice by the proper officer of the
10 board to make the required connections. An additional fine of \$10.00
11 shall be provided for each day of delay, after the expiration of the 30
12 days, in which the provisions of the order or notice are not complied
13 with. Such notice may be served upon the owner personally or by
14 leaving it at his usual place of abode with a member of his family
15 above the age of 18 years.

16 e. (Deleted by amendment, P.L.1987, c.442.)

17 f. To regulate, control, and prohibit the accumulation of offal and
18 any decaying or vegetable substance.

19 g. (1) To regulate the location, construction, maintenance, method
20 of emptying or cleaning, and the frequency of cleaning of any privy or
21 other place used for the reception or storage of human excrement, and
22 to prohibit the construction or maintenance of any privy or other such
23 place until a license therefor shall have been issued by the board,
24 which license shall continue in force for one year from the date of
25 issue.

26 (2) To fix the fee, not exceeding \$5.00, for such license, and to use
27 the fees so collected in supervising and maintaining said privies or
28 other places and in removing and disposing of the excrement
29 therefrom.

30 (3) To revoke such license at any time if the owner or tenant of the
31 property on which any privy or other such place is located, maintains
32 the same in violation of law, or of the State sanitary code, or any
33 ordinance or rule of the board.

34 h. To regulate, control, or prohibit the cleaning of any sewer, the
35 dumping of garbage, the filling of any sunken lot or marsh land, and
36 to provide for the filling up of any such lot or land, which has become
37 filled with stagnant water and is located in any built-up area.

38 i. (1) To license and regulate the business of cleaning cesspools and
39 privies, which license shall continue for the term of one year from the
40 date of granting, and to fix the fee that shall be charged for such
41 license, not exceeding \$20.00 for each vehicle or conveyance.

42 (2) To prohibit unlicensed persons from engaging in such business.

43 (3) To require any vehicle or conveyance used in such business
44 within its jurisdiction to be approved by it.

45 (4) To revoke such license if any licensee or his employee or agent
46 shall violate any ordinance or rule of the board in cleaning any

1 cesspool or privy, or in removing the contents thereof.

2 j. To aid in the enforcement of laws as to the adulteration of all
3 kinds of food and drink, and to prevent the sale or exposure for sale
4 of any meat or vegetable that is unwholesome or unfit for food.

5 k. To regulate, control, or prohibit the keeping or slaughtering of
6 animals.

7 l. To license and regulate the keeping of boarding houses for
8 infants and children and to fix a license fee for the same and to prevent
9 unlicensed persons from keeping such boarding houses. This
10 paragraph shall not apply to:

11 (1) The [Division of Youth and Family Services] Department of
12 Human Services.

13 (2) Any children's home, orphan asylum, or children's aid society
14 incorporated under the laws of this State.

15 (3) Any aid society of a properly organized and accredited church
16 or fraternal society organized for aid and relief to its members.

17 (4) Any charitable society incorporated under the laws of this State
18 having as one of its objects the prevention of cruelty to children or the
19 care and protection of children.

20 m. To require in buildings, designed to be occupied, or occupied,
21 as residences by more than two families and when the owners have
22 agreed to supply heat, that from October 1 of each year to the next
23 succeeding May 1, every unit of dwelling space and every habitable
24 room therein shall be maintained at least at 68` F. whenever the
25 outside temperature falls below 55` during daytime hours from 6 a.m.
26 to 11 p.m. At times other than those specified interiors of units of
27 dwelling space shall be maintained at least at 55` F. whenever the
28 outside temperature falls below 40`.

29 In meeting the aforesaid standards, the owner shall not be
30 responsible for heat loss and the consequent drop in the interior
31 temperature arising out of action by the occupants in leaving windows
32 or doors open to the exterior of the building. The owner shall be
33 obligated to supply required fuel or energy and maintain the heating
34 system in good operating condition so that it can supply heat as
35 required herein notwithstanding any contractual provision seeking to
36 delegate or shift responsibility to the occupant or third person, except
37 that the owner shall not be required to supply fuel or energy for
38 heating purposes to any unit where the occupant thereof agrees in
39 writing to supply heat to his own unit of dwelling space and the said
40 unit is served by its own exclusive heating equipment for which the
41 source of heat can be separately computed and billed.

42 n. To regulate the practice of midwifery, but the exercise of such
43 authority shall not conflict with the provisions of chapter 10 of Title
44 45 of the Revised Statutes (s.45:10-1 et seq.).

45 o. To enforce the making of returns or reports to the local board
46 on the part of any person charged with such duty under any law and

1 to take cognizance of any failure to make such returns and deal with
2 the same in an effective manner.

3 p. To act as the agent for a landlord in the engaging of repairmen
4 and the ordering of any parts necessary to restore to operating
5 condition the furnace, boiler or other equipment essential to the proper
6 heating of any residential unit rented by said landlord, provided,
7 however, that at least 24 hours have elapsed since the tenant has
8 lodged a complaint with the local board of health, prior to which a
9 bona fide attempt has been made by the tenant to notify the landlord
10 of the failure of the heating equipment, and the landlord has failed to
11 take appropriate action, and the outside air temperature is less than
12 55` F.

13 Any person who supplies material or services in accordance with
14 this section shall bill the landlord directly and by filing a notice
15 approved by the local board of health, with the county clerk, shall have
16 a lien on the premises where the materials were used or services
17 supplied.

18 (cf: P.L.1987, c.442, s.4)

19

20 66. Section 1 of P.L.1974, c.44 (C.30:1-8.1) is amended to read as
21 follows:

22 1. The commissioner shall be assisted in the performance of his
23 duties by [two] three deputy commissioners. Each deputy
24 commissioner shall be appointed by and shall serve at the pleasure of
25 the commissioner, and until his successor has been appointed and
26 qualified.

27 Each deputy commissioner shall exercise such powers and perform
28 such duties as the commissioner shall prescribe.

29 Unless otherwise provided by law, each deputy commissioner shall
30 receive such salary as may be established by the commissioner with the
31 approval of the President of the Civil Service Commission and the
32 Director of the Division of Budget and Accounting.

33 The commissioner may designate one of the deputy commissioners
34 to exercise the powers and perform the duties of the commissioner
35 during his disability or absence.

36 (cf: P.L.1974, c.44, s.1)

37

38 67. R.S.30:4-14 is amended to read as follows:

39 30:4-14. a. The Commissioner of Human Services may, in writing,
40 appoint persons to the position of police officer to serve as law
41 enforcement officers for the Department of Human Services in
42 accordance with applicable statutory law, rules and regulations.

43 b. A Human Services police officer appointed pursuant to this
44 section shall be empowered to act as an officer for the detection,
45 apprehension, arrest and conviction of offenders against the law,
46 [except that police] and, in addition to such other duties as the

1 Commissioner of Human Services determines are appropriate, to assist
2 caseworkers in the Division of Child Protection and Permanency in
3 carrying out their responsibilities. Police officers shall be permitted to
4 carry firearms or other weapons only when authorized to do so by the
5 Commissioner of Human Services.

6 c. No person may be appointed as a Human Services police officer
7 unless the person:

8 (1) Is able to read, write and speak the English language well and
9 intelligently and has a high school diploma or its equivalent;

10 (2) Is sound in body and of good health;

11 (3) Is of good moral character;

12 (4) Has not been convicted of any offense involving dishonesty or
13 which would make the person unfit to perform the duties of this office;
14 and

15 (5) Has successfully undergone a program of psychological testing.

16 d. Every applicant for the position of Human Services police
17 officer appointed pursuant to this section shall have fingerprints taken,
18 which fingerprints shall be filed with the Division of State Police and
19 the Federal Bureau of Investigation.

20 e. The Commissioner of Human Services, in consultation with the
21 Attorney General and the Director of the Division of Criminal Justice
22 in the Department of Law and Public Safety, shall promulgate rules
23 and regulations to effectuate the purposes of this section.

24 (cf: P.L.1995, c.273, s.1)

25
26 68. Section 14 of P.L.1965, c.59 (C.30:4-25.2) is amended to read
27 as follows:

28 14. Application for determination of eligibility for functional
29 services for a person under the age of 21 years who is believed to be
30 mentally retarded may be made to the commissioner by:

31 1. his parent or guardian;

32 2. a child-caring agency, hospital, clinic, or other appropriate
33 agency, public or private, or by a physician having care of the minor,
34 provided the written consent of the parent or guardian or the Division
35 of [Youth and Family Services] Child Protection and Permanency,
36 under its care and custody program, has been obtained; or

37 3. a Superior Court, Chancery Division, Family Part having
38 jurisdiction over the minor.

39 Application for determination of eligibility for any person over 18
40 years of age for functional services may be made by:

41 a. a mentally retarded individual over 18 years of age on his own
42 behalf;

43 b. the guardian of the person of an adjudicated mentally
44 incompetent adult; or

45 c. any court of competent jurisdiction in which the issue of mental
46 deficiency may have arisen and which finds that it is in the interest of

1 the alleged mentally deficient person to determine such eligibility.
2 (cf: P.L.1991, c.91, s.312)

3
4 69. Section 2 of P.L.1951, c.138 (C.30:4C-2) is amended to read
5 as follows:

6 2. For the purposes of this act the following words and terms shall,
7 unless otherwise indicated, be deemed and taken to have the meanings
8 herein given to them:

9 (a) The title ["Division of Youth and Family Services" successor
10 to the "Bureau of Children's Services"] "Department of Human
11 Services" or "department" means [the] a State agency for the care,
12 [custody, guardianship,] maintenance and [protection] welfare of
13 children, as more specifically described by the provisions of this act[,
14 and succeeding the agency heretofore variously designated by the laws
15 of this State as the State Board of Child Welfare or the State Board of
16 Children's Guardians].

17 (b) The word "child" includes stepchild and illegitimate child, and
18 further means any person under the age of 18 years.

19 (c) The term "care" means cognizance of a child for the purpose of
20 providing necessary welfare services, or maintenance, or both.

21 (d) The term "custody" means continuing responsibility for the
22 person of a child, as established by a surrender and release of custody
23 or consent to adoption, for the purpose of providing necessary welfare
24 services, or maintenance, or both.

25 (e) The term "guardianship" means control over the person and
26 property of a child as established by the order of a court of competent
27 jurisdiction, and as more specifically defined by the provisions of this
28 act. Guardianship by the Division of [Youth and Family Services]
29 Child Protection and Permanency shall be treated as guardianship by
30 the Commissioner of Human Services exercised on his behalf wholly
31 by and in the name of the [Division of Youth and Family Services]
32 division, acting through the chief executive officer of the division or
33 his authorized representative. Such exercise of guardianship by the
34 division shall be at all times and in all respects subject to the
35 supervision of the commissioner.

36 (f) The term "maintenance" means moneys expended by the
37 [Division of Youth and Family] Department of Human Services or the
38 Division of Child Protection and Permanency to procure board,
39 lodging, clothing, medical, dental, and hospital care, or any other
40 similar or specialized commodity or service furnished to, on behalf of,
41 or for a child pursuant to the provisions of this act; maintenance also
42 includes but is not limited to moneys expended for shelter, utilities,
43 food, repairs, essential household equipment, and other expenditures
44 to remedy situations of an emergent nature to permit, as far as
45 practicable, children to continue to live with their families.

1 (g) The term "welfare services" means consultation, counseling,
2 and referral to or utilization of available resources, for the purpose of
3 determining and correcting or adjusting matters and circumstances
4 which are endangering the welfare of a child, and for the purpose of
5 promoting his proper development and adjustment in the family and
6 the community.

7 (h) The term "foster parent" means any person other than a natural
8 or adoptive parent with whom a child in the care, custody or
9 guardianship of the Division of [Youth and Family Services] Child
10 Protection and Permanency is placed by said division, or with
11 its approval, for temporary or long-term care, but shall not include any
12 person with whom a child is placed for the purpose of adoption.

13 (i) The term "foster home" means and includes private residences,
14 group homes, residential facilities and institutions wherein any child in
15 the care, custody or guardianship of the Department of Human
16 Services or the Division of [Youth and Family Services] Child
17 Protection and Permanency may be placed by the [said] department
18 or division or with [its] their approval for temporary or long-term
19 care, and shall include any private residence maintained by persons
20 with whom any such child is placed for adoption.

21 (j) The singular includes the plural form.

22 (k) The masculine noun and pronoun include the feminine.

23 (l) The word "may" shall be construed to be permissive.

24 (m) The term "group home" means and includes any single family
25 dwelling used in the placement of 12 children or less pursuant to law,
26 recognized as a group home by the Department of Human Services in
27 accordance with rules and regulations adopted by the Commissioner
28 of Human Services; provided, however, that no group home shall
29 contain more than 12 children.

30 (n) The term "youth facility" means a facility within this State used
31 to house or provide services to children under this act, including but
32 not limited to group homes, residential facilities, day care centers, and
33 day treatment centers.

34 (o) The term "youth facility aid" means aid provided by the
35 [Division of Youth and Family Services] Department of Human
36 Services to public, private or voluntary agencies to purchase,
37 construct, renovate, repair, upgrade or otherwise improve a youth
38 facility in consideration for an agreement for the agency to provide
39 residential care, day treatment or other youth services for children in
40 need of such services.

41 (p) The term "day treatment center" means a facility used to
42 provide counseling, supplemental educational services, therapy, and
43 other related services to children for whom it has been determined that
44 such services are necessary, but is not used to house these children in
45 a residential setting.

46 (q) The term "residential facility" means a facility used to house

1 and provide treatment and other related services on a 24-hour basis to
2 children determined to be in need of such housing and services.

3 (r) The term "legally responsible person" means the natural or
4 adoptive parent, or the spouse of a child receiving maintenance from
5 or through the Department of Human Services or the Division of
6 【Youth and Family Services】 Child Protection and Permanency.

7 (s) "Commissioner" means the Commissioner of Human Services.

8 (t) "Division of Child Protection and Permanency" or "division"
9 means a State agency responsible for the care, custody, guardianship
10 and maintenance of children as specifically related to the protection of
11 children and stabilization of families. The division shall be responsible
12 for receiving and investigating allegations of child abuse or neglect,
13 providing services to children determined to be at risk of harm, and
14 providing foster care and adoption services.

15 (cf: P.L.1985, c.8, s.1)

16
17 70. Section 3 of P.L.1951, c.138 (C.30:4C-3) is amended to read
18 as follows:

19 3. The 【Division of Youth and Family Services】 division, in
20 administering the provisions of this act, whereby the safety of children
21 shall be of paramount concern, shall:

22 (a) provide care and custody for children eligible therefor in such
23 manner that the children may, so far as practicable, continue to live in
24 their own homes and family life be thereby preserved and
25 strengthened;

26 (b) provide necessary welfare services as may be required by such
27 children, so far as practicable, without assumption of custody;

28 (c) encourage the development of private and voluntary agencies
29 qualified to provide welfare services for children to the end that
30 through cooperative effort the need for such services may be limited
31 or reduced; and

32 (d) for each child placed outside his home by the division, provide
33 permanency through return of the child to the child's own home, if the
34 child can be returned home without endangering the child's health or
35 safety; through adoption, if family reunification is not possible; or
36 through an alternative permanent placement, if termination of parental
37 rights is not appropriate.

38 (cf: P.L.1999, c.53, s.21)

39
40 71. Section 1 of P.L.2001, c.252 (C.30:4C-3.1) is amended to read
41 as follows:

42 1. There is hereby established in, but not of, the Department of
43 Human Services the Division of 【Youth and Family Services】 Child
44 Protection and Permanency Staffing and Outcome Review Panel
45 ("Review Panel").

46 (cf: P.L.2001, c.252, s.1)

1 72. Section 2 of P.L.2001, c.252 (C.30:4C-3.2) is amended to read
2 as follows:

3 2. The Review Panel shall consist of nineteen (19) members as
4 follows:

5 a. The Commissioner of Human Services, or a designee, shall serve
6 ex-officio.

7 b. The Commissioner of Personnel, or a designee, shall serve
8 ex-officio.

9 c. The State Treasurer, or a designee, shall serve ex-officio.

10 d. The Attorney General, or a designee, shall serve ex-officio.

11 e. The Public Defender, or a designee, shall serve ex-officio.

12 f. The Director of the Administrative Office of the Courts, or a
13 designee, shall serve ex-officio.

14 g. A representative of the Office of the Governor.

15 h. Two members of the Senate to be appointed by the President of
16 the Senate who shall each be of different political parties and who shall
17 serve during the legislative session in which the appointment is made,
18 one of whom shall be the Chairman of the Senate [~~Women's Issues,~~
19 ~~Children and Family Services~~] Health, Human Services and Senior
20 Citizens Committee. A member may be appointed for any number of
21 successive terms.

22 i. Two members of the General Assembly to be appointed by the
23 Speaker of the General Assembly who shall each be of different
24 political parties and who shall serve during the legislative session in
25 which the appointment is made, one of whom shall be the Chairman of
26 the Assembly [~~Senior Issues and Community~~] Family, Women and
27 Children's Services Committee. A member may be appointed for any
28 number of successive terms.

29 j. Eight public members shall be directly appointed by the Governor
30 as follows:

31 (1) three public members who are representatives from employee
32 organizations, two of whom are representatives of the
33 Communications Workers of America;

34 (2) a public member who is a representative of the Association for
35 Children of New Jersey;

36 (3) a public member who is a representative of Legal Services of
37 New Jersey;

38 (4) a public member who is a representative of a contracted service
39 provider to the Division of [~~Youth and Family Services~~] Child
40 Protection and Permanency; and

41 (5) two public members, one of whom is a foster parent and one of
42 whom is an adoptive parent.

43 (cf: P.L.2001, c.252, s.2)

44

45 73. Section 6 of P.L.2001, c.252 (C.30:4C-3.6) is amended to read
46 as follows:

1 6. a. The Review Panel shall review the staffing levels of the
2 Division of [Youth and Family Services] Child Protection and
3 Permanency in the Department of Human Services in order to develop
4 recommendations regarding staffing levels and the most effective
5 methods of recruiting, hiring and retaining staff within the [Division
6 of Youth and Family Services] division. In addition, the panel shall
7 review the division's performance in the achievement of management
8 and client outcomes.

9 b. The Review Panel shall present a preliminary report of its
10 findings and recommendations to the Governor and the Legislature
11 prior to January 1, 2002, and subsequent reports annually thereafter
12 with the first full report due no later than July 1, 2002.
13 (cf: P.L.2001, c.252, s.6)

14
15 74. Section 4 of P.L.1951, c.138 (C.30:4C-4) is amended to read
16 as follows:

17 4. The [Division of Youth and Family Services] division shall have
18 the requisite powers to:

19 (a) Exercise general supervision over children for whom care,
20 custody or guardianship is provided in accordance with article 2 of this
21 act;

22 (b) Administer for the Department of Human Services the powers
23 and duties provided in chapter 3 of Title 9 of the Revised Statutes
24 (Adoption), as amended and supplemented, as the same may be
25 delegated and assigned by the said department;

26 (c) Administer for the Commissioner of Human Services the powers
27 and duties as provided in chapter 7 of Title 9 of the Revised Statutes
28 (dependent children; bringing into State), as amended and
29 supplemented, as the same may be delegated and assigned by the said
30 commissioner;

31 (d) [Administer for the State Board of Institutional Trustees the
32 powers and duties provided in sections 30:1-14 through 30:1-17 of
33 chapter 1 of Title 30 of the Revised Statutes (visitation and
34 inspection), as amended and supplemented, so far as the same may be
35 delegated and assigned by the said State Board of Institutional
36 Trustees with respect to institutions, organizations and
37 noninstitutional agencies for the care, custody and welfare of
38 children;] (Deleted by amendment, P.L. , c.)

39 (e) [Provide care and exercise supervision over children paroled or
40 released from State correctional institutions for juveniles in accordance
41 with rules and regulations established by the State Board of Control;]
42 (Deleted by amendment, P.L. , c.)

43 (f) Make investigations or provide supervision of any child in this
44 State at the request and on behalf of a public or private agency or
45 institution of any other State;

1 (g) [Meet and confer, as the unmet needs of New Jersey's children
2 may require, with representatives of the public welfare boards and the
3 private agencies and institutions for the care of children in this State
4 in order that the programs of such boards, agencies and institutions
5 may be developed and fully utilized and that there may be a
6 coordination of all public and private facilities for the protection and
7 care of children;] (Deleted by amendment, P.L. , c.)

8 (h) Issue such reasonable rules and regulations as may be necessary
9 for the purpose of carrying into effect the meaning of this act, which
10 rules and regulations shall be binding so far as they are consistent with
11 such purpose.

12 (i) Promulgate and file with the Secretary of State, subject to the
13 approval of the [Board of Public Welfare] department, rules and
14 regulations as may be necessary as a basis for the provision for
15 payment for services rendered by privately sponsored agencies or
16 institutions to children under the care, custody or guardianship of the
17 [Division of Youth and Family Services] department or the division.
18 Such rules and regulations shall include, but shall not be limited to,
19 standards of professional training, experience and practices, and
20 requirements relating to the moral responsibility of the trustees,
21 officers or other persons supervising or conducting the program, the
22 adequacy of the facilities, the maintenance of adequate casework
23 records, and the furnishing of comprehensive reports;

24 (j) [Enter into written agreements with public, private or voluntary
25 agencies to provide youth facility aid to such agencies, subject to a
26 preaward qualification review of the agency's fiscal and programmatic
27 abilities and periodic reviews.] (Deleted by amendment, P.L. c.)

28 (cf: P.L.1979, c.309, s.3)

29
30 75. (New section) The Department of Human Services shall have
31 the requisite powers to:

32 a. Meet and confer, as the unmet needs of the State's children may
33 require, with representatives of the public welfare boards and the
34 private agencies and institutions for the care of children in this State
35 in order that the programs of these boards, agencies and institutions
36 may be developed and fully utilized and that there may be a
37 coordination of all public and private facilities for the protection and
38 care of children;

39 b. Administer for the State Board of Human Services the powers
40 and duties provided in R.S.30:1-14 through 30:1-17, so far as the
41 same may be delegated and assigned by the State Board of Human
42 Services with respect to institutions, organizations and noninstitutional
43 agencies for the care, custody and welfare of children;

44 c. Provide care and exercise supervision over children paroled or
45 released from State correctional institutions for juveniles in accordance
46 with rules and regulations established by the State Board of Human

1 Services; and

2 d. Enter into written agreements with public, private or voluntary
3 agencies to provide youth facility aid to these agencies, subject to a
4 pre-award qualification review of the agency's fiscal and programmatic
5 abilities and periodic reviews.

6

7 76. Section 1 of P.L.1962, c.140 (C.30:4C-4.1) is amended to read
8 as follows:

9 1. Notwithstanding the provisions of any other law, no action or
10 proceeding, including an application for a writ of habeas corpus, in any
11 court which the [Bureau of Childrens Services] Department of Human
12 Services or the Division of Child Protection and Permanency is
13 authorized by law to commence or maintain shall be commenced or
14 maintained by the [said bureau] department or division, without the
15 consent and approval of the State Board of [Control of Institutions
16 and Agencies] Human Services or the Commissioner of [the
17 Department of Institutions and Agencies] Human Services, as
18 hereinafter provided.

19 (cf: P.L.1964, c.102, s.18)

20

21 77. Section 2 of P.L.1962, c.140 (C.30:4C-4.2) is amended to read
22 as follows:

23 2. The [said] State Board of [Control] Human Services, by
24 departmental rule or regulation, may, as to the commencement or
25 maintenance of certain specified actions or proceedings in any court,
26 grant its consent and approval generally, and as to others, require the
27 consent and approval of the Commissioner of [the Department of
28 Institutions and Agencies] Human Services as the duly authorized
29 agent of the State Board of [Control] Human Services, but in no case
30 shall the [Bureau of Childrens Services] Department of Human
31 Services or the Division of Child Protection and Permanency, defend
32 against any action or proceeding or make or oppose any application
33 for a writ of habeas corpus without the express consent and approval
34 of the State Board of [Control of Institutions and Agencies] Human
35 Services thereto or the consent and approval of the Commissioner of
36 [the Department of Institutions and Agencies] Human Services as the
37 duly authorized agent of the State Board of [Control] Human
38 Services.

39 (cf: P.L.1964, c.102, s.19)

40

41 78. Section 3 of P.L.1962, c.140 (C.30:4C-4.3) is amended to read
42 as follows:

43 3. The Commissioner of [the Department of Institutions and
44 Agencies] Human Services shall cause a copy of every rule or
45 regulation and a certification of every consent and approval issued or

1 granted by the State Board of [Control of Institutions and
2 Agencies] Human Services or the Commissioner of [the Department
3 of Institutions and Agencies] Human Services pursuant to the
4 provisions of this act to be given to the Attorney General and to the
5 Deputy Attorney General assigned to the Department of [Institutions
6 and Agencies] Human Services.

7 (cf: P.L.1962, c.140, s.3)

8

9 79. Section 5 of P.L.1951, c.138 (C.30:4C-5) is amended to read
10 as follows:

11 5. Except as provided in section 12 and sections 15 through 22 of
12 [this act] P.L.1951, c.138 (C.30:4C-12 and 30:4C-15 through 22),
13 nothing in this act shall authorize the [Bureau of Childrens
14 Services] department or division to accept the care or custody of any
15 child, nor to provide welfare services for any child, except with the
16 voluntary approval and consent of the parent, parents, legal custodian,
17 guardian or other person with whom the child may be living.

18 (cf: P.L.1962, c.197, s.11)

19

20 80. Section 6 of P.L.1951, c.138 (C.30:4C-6) is amended to read
21 as follows:

22 6. No person to whom or for whom payments for maintenance are
23 made under this act shall be deemed to be or classified as a pauper by
24 reason thereof.

25 The provisions of this act shall not be construed to deny treatment
26 by spiritual means or prayer, of any child, in accordance with the
27 religious faith of the parent or parents of such child. The provisions
28 of this act shall not be construed to authorize or empower the
29 [Bureau of Childrens Services] department or division to compel a
30 child to undergo medical or surgical treatment, if the child, or parent
31 or guardian of said child, objects thereto in a signed statement upon
32 the ground that the proposed action interferes with the free exercise
33 of his religious principles.

34 (cf: P.L.1962, c.197, s.12)

35

36 81. Section 7 of P.L.1951, c.138 (C.30:4C-7) is amended to read
37 as follows:

38 7. All birth, death and marriage certificates which may be required
39 under the provisions of this act, or under any rule or regulation issued
40 by the [Bureau of Childrens Services] department or division, shall
41 be issued free of charge upon the order of [such bureau] the
42 department or division.

43 (cf: P.L.1962, c.197, s.13)

44

45 82. Section 11 of P.L.1951, c.138 (C.30:4C-11) is amended to

1 read as follows:

2 11. Whenever it shall appear that any child within this State is of
3 such circumstances that the child's safety or welfare will be endangered
4 unless proper care or custody is provided, an application setting forth
5 the facts in the case may be filed with the [Division of Youth and
6 Family Services] division by a parent or other relative of such child,
7 by a person standing in loco parentis to such child, by a person or
8 association or agency or public official having a special interest in such
9 child or by the child himself, seeking that the division accept and
10 provide such care or custody of such child as the circumstances may
11 require. Such application shall be in writing, and shall contain a
12 statement of the relationship to or special interest in such child which
13 justifies the filing of such application. The provisions of this section
14 shall be deemed to include an application on behalf of an unborn child
15 when the prospective mother is within this State at the time of
16 application for such services.

17 Upon receipt of an application as provided in this section, the
18 division shall verify the statements set forth in such application and
19 shall investigate all the matters pertaining to the circumstances of the
20 child. If upon such verification and investigation it shall appear (a)
21 that the safety or welfare of such child will be endangered unless
22 proper care or custody is provided; (b) that the needs of such child
23 cannot properly be provided for by financial assistance as made
24 available by the laws of this State; (c) that there is no person legally
25 responsible for the support of such child whose identity and
26 whereabouts are known and who is willing and able to provide for the
27 care and support required by such child; and (d) that such child, if
28 suffering from a mental or physical disability requiring institutional
29 care, is not immediately admissible to any public institution providing
30 such care; then the division may accept and provide such care or
31 custody as the circumstances of such child may require.

32 (cf: P.L.1999, c.53, s.22)

33

34 83. Section 24 of P.L.1999, c.53 (C.30:4C-11.2) is amended to
35 read as follows:

36 24. In any case in which the Division of [Youth and Family
37 Services] Child Protection and Permanency accepts a child in care or
38 custody, including placement, the division shall not be required to
39 provide reasonable efforts to prevent placement of the child if a court
40 of competent jurisdiction has determined that both of the following
41 criteria are met:

42 a. One of the following actions has occurred:

43 (1) the parent has subjected the child to aggravated circumstances
44 of abuse, neglect, cruelty or abandonment,

45 (2) the parent has been convicted of murder, aggravated
46 manslaughter or manslaughter of a child; aiding or abetting,

1 attempting, conspiring or soliciting to commit murder, aggravated
2 manslaughter or manslaughter of a child; committing or attempting to
3 commit an assault that resulted, or could have resulted, in the
4 significant bodily injury to a child; or committing a similarly serious
5 criminal act which resulted, or could have resulted, in the death or
6 significant bodily injury to a child,

7 (3) the rights of the parent to another of the parent's children have
8 been involuntarily terminated or

9 (4) removal of the child was required due to imminent danger to
10 the child's life, safety or health; and

11 b. Efforts to prevent placement were not reasonable due to risk of
12 harm to the child's health or safety.

13 When determining whether reasonable efforts are required to
14 prevent placement, the health and safety of the child shall be of
15 paramount concern to the court.

16 (cf: P.L.1999, c.53, s.24)

17

18 84. Section 25 of P.L.1999, c.53 (C.30:4C-11.3) is amended to
19 read as follows:

20 25. In any case in which the Division of [Youth and Family
21 Services] Child Protection and Permanency accepts a child in care or
22 custody, including placement, the division shall not be required to
23 provide reasonable efforts to reunify the child with a parent if a court
24 of competent jurisdiction has determined that:

25 a. The parent has subjected the child to aggravated circumstances
26 of abuse, neglect, cruelty or abandonment;

27 b. The parent has been convicted of murder, aggravated
28 manslaughter or manslaughter of a child; aiding or abetting,
29 attempting, conspiring or soliciting to commit murder, aggravated
30 manslaughter or manslaughter of a child; committing or attempting to
31 commit an assault that resulted, or could have resulted, in significant
32 bodily injury to a child; or committing a similarly serious criminal act
33 which resulted, or could have resulted, in the death of or significant
34 bodily injury to a child; or

35 c. The rights of the parent to another of the parent's children have
36 been involuntarily terminated.

37 When determining whether reasonable efforts are required to
38 reunify the child with the parent, the health and safety of the child and
39 the child's need for permanency shall be of paramount concern to the
40 court.

41 This section shall not be construed to prohibit the division from
42 providing reasonable efforts to reunify the family, if the division
43 determines that family reunification is in the child's best interests.

44 A permanency plan for the child may be established at the same
45 hearing at which the court determines that reasonable efforts are not
46 required to reunify the child with the parent, if the hearing meets all of

1 the requirements of a permanency hearing pursuant to section 50 of
2 P.L.1999, c.53 (C.30:4C-61.2).
3 (cf: P.L.1999, c.53, s.25)
4

5 85. Section 12 of P.L.1951, c.138 (C.30:4C-12) is amended to
6 read as follows:

7 12. Whenever it shall appear that the parent or parents, guardian,
8 or person having custody and control of any child within this State is
9 unfit to be entrusted with the care and education of such child, or shall
10 fail to provide such child with proper protection, maintenance and
11 education, or shall fail to ensure the health and safety of the child, or
12 is endangering the welfare of such child, a written or oral complaint
13 may be filed with the [Division of Youth and Family
14 Services] division by any person or by any public or private agency or
15 institution interested in such child. When such a complaint is filed by
16 a public or private agency or institution, it shall be accompanied by a
17 summary setting forth the reason for such complaint and other social
18 history of the child and his family's situation which justifies such
19 complaint; or, if this is not feasible, such summary shall be made
20 available to the [Division of Youth and Family Services] division as
21 soon thereafter as possible. Upon receipt of a complaint as provided
22 in this section, the [Division of Youth and Family Services] division
23 shall investigate, or shall cause to be investigated, the statements set
24 forth in such complaint. If the circumstances so warrant, the parent,
25 parents, guardian, or person having custody and control of the child
26 shall be afforded an opportunity to file an application for care, as
27 provided in section 11 of P.L.1951, c.138 (C.30:4C-11). If the parent,
28 parents, guardian, or person having custody and control of the child
29 shall refuse to permit or shall in any way impede investigation, and the
30 division determines that further investigation is necessary in the best
31 interests of the child, the division may thereupon apply to the Family
32 Part of the Chancery Division of the Superior Court in the county
33 where the child resides, for an order directing the parent, parents,
34 guardian, or person having custody and control of the child to permit
35 immediate investigation. The court, upon such application, may
36 proceed to hear the matter in a summary manner and if satisfied that
37 the best interests of the child so require may issue an order as
38 requested.

39 If, after such investigation has been completed, it appears that the
40 child requires care and supervision by the [Division of Youth and
41 Family Services] division or other action to ensure the health and
42 safety of the child, but the parent, parents, guardian, or person having
43 custody and control of the child continue to refuse to apply for care in
44 the manner provided in section 11 of P.L.1951, c.138 (C.30:4C-11) or
45 to take action to ensure the health and safety of the child, the division
46 may apply to the Family Part of the Chancery Division of the Superior

1 Court in the county where the child resides for an order making the
2 child a ward of the court and placing such child under the care and
3 supervision of the [Division of Youth and Family Services] division.

4 The court, at a summary hearing held upon notice to the [Division
5 of Youth and Family Services] division, and to the parent, parents,
6 guardian, or person having custody and control of the child, if satisfied
7 that the best interests of the child so require, may issue an order as
8 requested, which order shall have the same force and effect as the
9 acceptance of a child for care by the division as provided in section 11
10 of P.L.1951, c.138 (C.30:4C-11); provided, however, that such order
11 shall not be effective beyond a period of six months from the date of
12 entry unless the court, upon application by the [Division of Youth and
13 Family Services] division, at a summary hearing held upon notice to
14 the parent, parents, guardian, or person having custody of the child,
15 extends the time of the order.

16 Immediately after the court's order and while the child is in the
17 division's care, the division shall initiate a search for the child's mother
18 or father, if they are not known to the division. The search shall be
19 initiated within 30 days of the court order. The search will be
20 completed when all sources contacted have either responded to the
21 inquiry or failed to respond within 45 days. The results shall be valid
22 for six months after the date it was completed.
23 (cf: P.L.1999, c.53, s.27)

24
25 86. Section 6 of P.L.1991, c.275 (C.30:4C-12.1) is amended to
26 read as follows:

27 6. a. In any case in which the Division of [Youth and Family
28 Services] Child Protection and Permanency accepts a child in its care
29 or custody, including placement, the division shall initiate a search for
30 relatives who may be willing and able to provide the care and support
31 required by the child. The search shall be initiated within 30 days of
32 the division's acceptance of the child in its care or custody. The search
33 will be completed when all sources contacted have either responded to
34 the inquiry or failed to respond within 45 days. The division shall
35 complete an assessment of each interested relative's ability to provide
36 the care and support, including placement, required by the child.

37 b. If the division determines that the relative is unwilling or unable
38 to assume the care of the child, the division shall not be required to
39 re-evaluate the relative. The division shall inform the relative in
40 writing of:

- 41 (1) the reasons for the division's determination;
- 42 (2) the responsibility of the relative to inform the division if there
43 is a change in the circumstances upon which the determination was
44 made;
- 45 (3) the possibility that termination of parental rights may occur if
46 the child remains in foster care for more than six months; and

1 (4) the right to seek review by the division of such determination.

2 c. The division may decide to pursue the termination of parental
3 rights if the division determines that termination of parental rights is
4 in the child's best interests.

5 (cf: P.L.1995, c.416, s.1)

6
7 87. Section 28 of P.L.1999, c.53 (C.30:4C-12.2) is amended to
8 read as follows:

9 28. In any case in which the Division of [Youth and Family
10 Services] Child Protection and Permanency accepts a child in its care
11 or custody, the child's foster parent, preadoptive parent or relative
12 providing care for the child, as applicable, shall receive written notice
13 of and an opportunity to be heard at any review or hearing held with
14 respect to the child, but the foster parent, preadoptive parent or
15 relative shall not be made a party to the review or hearing solely on the
16 basis of the notice and opportunity to be heard.

17 (cf: P.L.1999, c.53, s.28)

18
19 88. Section 13 of P.L.1951, c.138 (C.30:4C-13) is amended to
20 read as follows:

21 13. If in the course of verifying and investigating any applications
22 or complaints, as provided for in sections 11 and 12 [hereof] of
23 P.L.1951, c.138 (C.30:4C-11 and 12), it shall appear that there is a
24 person legally responsible for the support of the child who is willing
25 and able to provide the care and support required by such child; or it
26 shall appear that the needs of the child can properly be provided for by
27 financial assistance as made available by the laws of this State; then,
28 the [Bureau of Childrens Services] division, before accepting and
29 providing care or custody, shall first make proper referral of the matter
30 to such legally responsible person, or to the agency charged with the
31 administration of such financial assistance. If it shall appear that the
32 welfare of the child is endangered, and that such condition can be
33 eliminated or ameliorated by making available to or for such child any
34 one or more of whatever specific services the [Bureau of Childrens
35 Services] division may be authorized, within the limits of legislative
36 appropriations, to provide for all children in similar circumstances, the
37 child shall be found eligible for care or custody, and the
38 [bureau] division shall proceed to furnish such services either by
39 direct provision or, if the [bureau] division so determines in the
40 specific case, by purchasing such services from any appropriate
41 privately sponsored agency or institution which complies with
42 whatever rules and regulations, established pursuant to this act, may
43 govern such arrangements for purchase of service.

44 (cf: P.L.1962, c.197, s.16)

45
46 89. Section 14 of P.L.1951, c.138 (C.30:4C-14) is amended to

1 read as follows:

2 The [Bureau of Childrens Services] division shall give due notice
3 in writing to the applicant or complainant of the action taken on any
4 application as provided in sections 11 and 12 [hereof] of P.L.1951,
5 c.138 (C.30:4C-11 and 12).
6 (cf: P.L.1962, c.197, s.17)
7

8 90. Section 15 of P.L.1951, c.138 (C.30:4C-15) is amended to
9 read as follows:

10 15. Whenever (a) it appears that a court wherein a complaint has
11 been proffered as provided in chapter 6 of Title 9 of the Revised
12 Statutes, has entered a conviction against the parent or parents,
13 guardian, or person having custody and control of any child because
14 of abuse, abandonment, neglect of or cruelty to such child; or (b)
15 (Deleted by amendment, P.L.1991, c.275); (c) it appears that the best
16 interests of any child under the care or custody of the [Division of
17 Youth and Family Services] division require that he be placed under
18 guardianship; or (d) it appears that a parent or guardian of a child,
19 following the acceptance of such child by the division pursuant to
20 section 11 or 12 of P.L.1951, c.138 (C.30:4C-11 or 12), or following
21 the placement or commitment of such child in the care of an
22 authorized agency, whether in an institution or in a foster home, and
23 notwithstanding the reasonable efforts of such agency to encourage
24 and strengthen the parental relationship, has failed for a period of one
25 year to remove the circumstances or conditions that led to the removal
26 or placement of the child, although physically and financially able to
27 do so, notwithstanding the division's reasonable efforts to assist the
28 parent or guardian in remedying the conditions; (e) the parent has
29 abandoned the child; or (f) the parent of a child has been found by a
30 criminal court of competent jurisdiction to have committed murder,
31 aggravated manslaughter or manslaughter of another child of the
32 parent; to have aided or abetted, attempted, conspired, or solicited to
33 commit such murder, aggravated manslaughter or manslaughter of the
34 child or another child of the parent; or to have committed, or
35 attempted to commit, an assault that resulted, or could have resulted,
36 in the significant bodily injury to the child or another child of the
37 parent; or the parent has committed a similarly serious act which
38 resulted, or could have resulted, in the death or significant bodily
39 injury to the child or another child of the parent; a petition to
40 terminate the parental rights of the child's parents, setting forth the
41 facts in the case, shall be filed by the division with the Family Part of
42 the Chancery Division of the Superior Court in the county where such
43 child may be at the time of the filing of such petition. A petition shall
44 be filed as soon as any one of the circumstances in subsections (a)
45 through (f) of this section is established, but no later than when the
46 child has been in placement for 15 of the most recent 22 months,

1 unless the division establishes an exception to the requirement to seek
2 termination of parental rights in accordance with section 31 of
3 P.L.1999, c.53 (C.30:4C-15.3). Upon filing the petition, the division
4 shall initiate concurrent efforts to identify, recruit, process and
5 approve a qualified family to adopt the child.

6 A petition as provided in this section may be filed by any person or
7 any association or agency, interested in such child in the circumstances
8 set forth in subsections (a) and (f) of this section. The division shall
9 seek to be joined as a party to a petition filed to terminate the parental
10 rights of a child in the care and custody of the division unless the
11 division has established an exception to the requirement to seek
12 termination of parental rights in accordance with section 31 of
13 P.L.1999, c.53 (C.30:4C-15.3).

14 (cf: P.L.1999, c.53, s.29)

15
16 91. Section 7 of P.L.1991, c.275 (C.30:4C-15.1) is amended to
17 read as follows:

18 7. a. The [division] Division of Child Protection and Permanency
19 shall initiate a petition to terminate parental rights on the grounds of
20 the "best interests of the child" pursuant to subsection (c) of section
21 15 of P.L.1951, c.138 (C.30:4C-15) if the following standards are met:

22 (1) The child's safety, health or development has been or will
23 continue to be endangered by the parental relationship;

24 (2) The parent is unwilling or unable to eliminate the harm facing
25 the child or is unable or unwilling to provide a safe and stable home
26 for the child and the delay of permanent placement will add to the
27 harm. Such harm may include evidence that separating the child from
28 his foster parents would cause serious and enduring emotional or
29 psychological harm to the child;

30 (3) The division has made reasonable efforts to provide services to
31 help the parent correct the circumstances which led to the child's
32 placement outside the home and the court has considered alternatives
33 to termination of parental rights; and

34 (4) Termination of parental rights will not do more harm than
35 good.

36 b. The division shall initiate a petition to terminate parental rights
37 on the ground that the "parent has abandoned the child" pursuant to
38 subsection (e) of section 15 of P.L.1951, c.138 (C.30:4C-15) if the
39 following standards are met:

40 (1) a court finds that for a period of six or more months:

41 (a) the parent, although able to have contact, has had no contact
42 with the child, the child's foster parent or the division; and

43 (b) the parent's whereabouts are unknown, notwithstanding the
44 division's reasonable efforts to locate the parent; or

45 (2) where the identities of the parents are unknown and the
46 division has exhausted all reasonable methods of attempting

1 identification, the division may immediately file for termination of
2 parental rights upon the completion of the law enforcement
3 investigation; or

4 (3) where the parent voluntarily delivered the child to and left the
5 child at, or voluntarily arranged for another person to deliver the child
6 to and leave the child at a State, county or municipal police station or
7 at an emergency department of a licensed general hospital in this State
8 when the child is or appears to be no more than 30 days old, without
9 expressing an intent to return for the child, as provided in section 4 of
10 P.L.2000, c.58 (C.30:4C-15.7), the division shall file for termination
11 of parental rights no later than 21 days after the day the division
12 assumed care, custody and control of the child.

13 c. As used in this section and in section 15 of P.L.1951, c.138
14 (C.30:4C-15) "reasonable efforts" mean attempts by an agency
15 authorized by the division to assist the parents in remedying the
16 circumstances and conditions that led to the placement of the child and
17 in reinforcing the family structure, including, but not limited to:

18 (1) consultation and cooperation with the parent in developing a
19 plan for appropriate services;

20 (2) providing services that have been agreed upon, to the family,
21 in order to further the goal of family reunification;

22 (3) informing the parent at appropriate intervals of the child's
23 progress, development and health; and

24 (4) facilitating appropriate visitation.

25 d. The division shall not be required to provide "reasonable efforts"
26 as defined in subsection c. of this section prior to filing a petition for
27 the termination of parental rights if an exception to the requirement to
28 provide reasonable efforts to reunify the family has been established
29 pursuant to section 25 of P.L.1999, c.53 (C.30:4C-11.3).

30 (cf: P.L.2000, c.58, s.3)

31
32 92. Section 31 of P.L.1999, c.53 (C.30:4C-15.3) is amended to
33 read as follows:

34 31. The Division of [Youth and Family Services] Child Protection
35 and Permanency shall not be required to file a petition seeking the
36 termination of parental rights if:

37 a. The child is being cared for by a relative and a permanent plan
38 for the child can be achieved without termination of parental rights;

39 b. The division has documented in the case plan, which shall be
40 available for court review, a compelling reason for determining that
41 filing the petition would not be in the best interests of the child; or

42 c. The division is required to provide reasonable efforts to reunify
43 the family but the division has not provided to the family of the child,
44 consistent with the time period in the case plan, such services as the
45 division deems necessary for the safe return of the child to his home.

46 (cf: P.L.1999, c.53, s.31)

1 93. Section 4 of P.L.2000, c.58 (C.30:4C-15.7) is amended to read
2 as follows:

3 4. a. If a person voluntarily delivers a child who is or appears to
4 be no more than 30 days old to, and leaves the child at a State, county
5 or municipal police station and does not express an intent to return for
6 the child, a State, county or municipal police officer shall take the
7 child to the emergency department of a licensed general hospital in this
8 State and the hospital shall proceed as specified in subsection b. of this
9 section.

10 b. If a person voluntarily delivers a child who is or appears to be
11 no more than 30 days old to, and leaves the child at an emergency
12 department of a licensed general hospital in this State and does not
13 express an intent to return for the child, or, if a State, county or
14 municipal police officer brings a child to a licensed general hospital
15 under the circumstances set forth in subsection a. of this section, the
16 hospital shall:

17 (1) take possession of the child without a court order;

18 (2) take any action or provide any treatment necessary to protect
19 the child's physical health and safety; and

20 (3) no later than the first business day after taking possession of
21 the child, notify the Division of [Youth and Family Services] Child
22 Protection and Permanency in the Department of Human Services that
23 the hospital has taken possession of the child.

24 c. The [Division of Youth and Family Services] division shall
25 assume the care, custody and control of the child immediately upon
26 receipt of notice from a licensed general hospital pursuant to
27 paragraph (3) of subsection b. of this section. The division shall
28 commence a thorough search of all listings of missing children to
29 ensure that the relinquished child has not been reported missing.

30 d. A child for whom the [Division of Youth and Family
31 Services] division assumes care, custody and control pursuant to
32 subsection c. of this section shall be treated as a child taken into
33 possession without a court order.

34 e. It shall be an affirmative defense to prosecution for abandonment
35 of a child that the parent voluntarily delivered the child to and left the
36 child at, or voluntarily arranged for another person to deliver the child
37 to and leave the child at, a State, county or municipal police station
38 as provided in subsection a. of this section or the emergency
39 department of a licensed general hospital in this State as provided in
40 subsection b. of this section. Nothing in this subsection shall be
41 construed to create a defense to any prosecution arising from any
42 conduct other than the act of delivering the child as described herein,
43 and this subsection specifically shall not constitute a defense to any
44 prosecution arising from an act of abuse or neglect committed prior to
45 the delivery of the child to a State, county or municipal police station
46 as provided in subsection a. of this section or the emergency

1 department of a licensed general hospital in this State as provided in
2 subsection b. of this section.

3 f. A State, county or municipal police officer and the governmental
4 jurisdiction employing that officer or an employee of an emergency
5 department of a licensed general hospital in this State and the hospital
6 employing that person shall incur no civil or criminal liability for any
7 good faith acts or omissions performed pursuant to this section.

8 g. Any person who voluntarily delivers a child who is or appears
9 to be no more than 30 days old to a licensed general hospital or a
10 police station in accordance with this section shall not be required to
11 disclose that person's name or other identifying information or that of
12 the child or the child's parent, if different from the person who delivers
13 the child to the hospital or police station, or provide background or
14 medical information about the child, but may voluntarily do so.

15 (cf: P.L.2000, c.58, s.4)

16

17 94. Section 5 of P.L.2000, c.58 (C.30:4C-15.8) is amended to read
18 as follows:

19 5. The **[division]** Division of Child Protection and Permanency,
20 after assuming the care, custody and control of a child from a licensed
21 general hospital pursuant to section 4 of P.L.2000, c.58
22 (C.30:4C-15.7), shall not be required to attempt to reunify the child
23 with the child's parents. Additionally, the division shall not be
24 required to search for relatives of the child as a placement or
25 permanency option, or to implement other placement requirements that
26 give preference to relatives if the division does not have information
27 as to the identity of the child, the child's mother or the child's father.
28 The division shall place the child with potential adoptive parents as
29 soon as possible.

30 (cf: P.L.2000, c.58, s.5)

31

32 95. Section 17 of P.L.1951, c.138 (C.30:4C-17) is amended to
33 read as follows:

34 17. a. When a petition is filed under section 15 of P.L.1951, c.138
35 (C.30:4C-15), by a person, association or agency other than the
36 **[Division of Youth and Family Services]** division, the court, in
37 addition to causing service to be made upon the parent, parents,
38 guardian or person having custody and control of such child in
39 accordance with rules of court, shall also cause a copy of the petition
40 and notice of the time and place of hearing to be served on or mailed
41 to the division at least 20 days before the time of such hearing.

42 b. When a petition is filed under section 15 of P.L.1951, c.138
43 (C.30:4C-15) by a person, association or agency, the court shall cause
44 a copy of the petition to be served upon the absent parent of the child.
45 The notice shall inform the parent of the purpose of the action and of
46 the right to file written objections to the guardianship proceedings

1 within 20 days after notice is given in the case of a resident, and 35
2 days in the case of a nonresident, of this State.

3 If personal service of the notice cannot be effected because the
4 whereabouts of an absent parent are unknown, the court shall
5 determine that an adequate effort has been made to serve notice upon
6 the parent if the plaintiff has:

7 (1) Sent the notice by regular mail and by certified mail return
8 receipt requested, to the last known address of the parent;

9 (2) Made a discreet inquiry among any known relatives, friends and
10 current or former employers of the parent;

11 (3) Unless otherwise restricted by law, made direct inquiries, using
12 the party's name and last known or suspected address, to the local post
13 office, the Division of Motor Vehicles in the Department of Law and
14 Public Safety, the county welfare agency, the municipal police
15 department, the Division of State Police in the Department of Law and
16 Public Safety, the county probation office, the Department of
17 Corrections, and any other social service or law enforcement agency
18 known to have had contact with the parent, or the equivalent agencies
19 in other states, territories or countries.

20 Failure to receive a response to the inquiries made pursuant to
21 paragraphs (2) and (3) of this subsection within 45 days shall
22 constitute a negative response.

23 c. In any case in which the identity of an absent parent cannot be
24 determined or the known parent of a child is unable or refuses to
25 identify the other parent, and the court is unable from other
26 information before the court to identify the other parent, service on
27 that parent shall be waived by the court.

28 d. Whenever a petition is filed under section 15 of P.L.1951, c.138
29 (C.30:4C-15), and there shall be filed with such petition a statement
30 or statements made under oath and attesting that the best interests of
31 the child require that he be placed under the guardianship of the
32 division immediately and pending final hearing, the court, at a special
33 summary hearing held upon notice to the division, may make an
34 interlocutory order committing such child to the division until a final
35 hearing on the petition. Such interlocutory order shall have the same
36 force and effect as an order of commitment provided for in section 20
37 of P.L.1951, c.138 (C.30:4C-20).

38 (cf: P.L.1991, c.275, s.4)

39
40 96. Section 18 of P.L.1951, c.138 (C.30:4C-18) is amended to
41 read as follows:

42 18. Immediately upon receipt of the copy of a petition served on
43 or mailed to the [Bureau of Childrens Services] division as provided
44 by section 17 [hereof] of P.L.1951, c.138 (C.30:4C-17), [such
45 bureau] the division shall verify such petition and investigate all the
46 facts pertaining to the eligibility of the child for commitment, and prior

1 to the day set for hearing shall file with the court a report of its
2 findings. Such report shall show such facts as will assist the court in
3 making a decision in the matter.

4 (cf: P.L.1962, c.197, s.20)

5
6 97. Section 20 of P.L.1951, c.138 (C.30:4C-20) is amended to
7 read as follows:

8 20. If upon the completion of such hearing the court is satisfied
9 that the best interests of such child require that he be placed under
10 proper guardianship, such court shall make an order terminating
11 parental rights and committing such child to the guardianship and
12 control of the [Division of Youth and Family Services] division, and
13 such child shall thereupon become the legal ward of the division,
14 which shall be the legal guardian of such child for all purposes,
15 including the placement of such child for adoption.

16 If the court shall have made an interlocutory order as provided in
17 section 17 of P.L.1951, c.138 (C.30:4C-17), but at the final hearing a
18 further order of commitment shall not be made as provided in this
19 section, the [Division of Youth and Family Services] division shall
20 return the child forthwith to the parent or parents, guardian or person
21 having had custody of the child immediately prior to the filing of the
22 petition; provided, however, that if the return does not ensure the
23 safety of the child or if the parent or parents, guardian or person
24 having had custody cannot be found or, for other reason satisfactory
25 to the court, is unable to accept the child, the division, upon order of
26 the court, may place the child with such other person or persons who,
27 at the time of final hearing, expressed willingness to accept the child,
28 but such order shall in no wise be construed as a grant of custody or
29 guardianship. In all such cases the interlocutory order shall continue
30 in full force and effect until the division shall have made disposition of
31 the child as provided herein or as otherwise provided by law, but in
32 no case for a period longer than 30 days after the final hearing.

33 (cf: P.L.1999, c.53, s.32)

34
35 98. Section 21 of P.L.1951, c.138 (C.30:4C-21) is amended to
36 read as follows:

37 21. The order of the court committing a child to the guardianship
38 of the [Bureau of Childrens Services] division, shall in no wise be
39 restrictive of the duties, powers and authority of [such bureau] the
40 division in the care, custody, placement, welfare and exclusive
41 guardianship of the child as provided in this act, and [such bureau] the
42 division shall be removed as such guardian only by a court of
43 competent jurisdiction upon charges preferred and upon good cause
44 shown after an opportunity to be heard.

45 (cf: P.L.1962, c.197, s.22)

1 99. Section 22 of P.L.1951, c.138 (C.30:4C-22) is amended to
2 read as follows:

3 22. The care, custody or guardianship of the [Division of Youth
4 and Family Services] division shall be full and complete for all
5 purposes and shall vest in the division the custody and control of both
6 the person and property of children in its custody or care, and of its
7 wards, whether committed prior or subsequent to the effective date of
8 this act, when the children are in foster homes, without the necessity
9 of giving bond, and notwithstanding any previous appointment of a
10 guardian for the children under its custody or care or such wards.

11 Such care, custody or guardianship of the division shall enable the
12 division, acting through the chief executive officer of the division or
13 his authorized representative, to prosecute suits, claims and any and
14 all manner of proceedings or actions in law or equity for and on behalf
15 of the children under its custody or care or its wards when the children
16 are in foster homes; to demand and receive from all persons, including
17 guardians previously appointed, any and all property of the children
18 under its custody or care or its wards when the children are in foster
19 homes; and to hold and administer the real and personal property of
20 the children under its custody or care or its wards when the children
21 are in foster homes, or any interest they may have therein; provided,
22 however, that it shall be proper for the division, in its discretion, to
23 hold funds of the children under its custody or care or its wards when
24 the children are in foster homes on deposit in one or more banks,
25 building and loan associations, or trust companies in this State, and to
26 apply funds, other than earned income or the corpus of any trust,
27 devise or intestate share, or the proceeds of an insurance contract or
28 a personal injury award which a court specifically awards to a child to
29 make the child whole as a result of an injury, of any child under its
30 custody or care or any ward when the child is in a foster home against
31 expenditures for the maintenance of such child under its custody or
32 care or ward when the child is in a foster home.

33 A court of competent jurisdiction shall hear and determine petitions
34 by the division, on behalf of the children under its custody or care or
35 its wards when the children are in foster homes, for the transfer of any
36 or all assets being held by guardians previously appointed. The court
37 shall have jurisdiction, in its discretion, to waive costs in any
38 proceedings by the division on behalf of the children under its custody
39 or care or its wards when the children are in foster homes.

40 (cf: P.L.1985, c.8, s.2)

41

42 100. Section 23 of P.L.1951, c.138 (C.30:4C-23) is amended to
43 read as follows:

44 23. In addition to the methods otherwise provided in this article for
45 establishing guardianship by the [Bureau of Childrens
46 Services] division, and when necessary to carry out the provisions of

1 this act, the [Bureau of Childrens Services] division, after due
2 investigation and consideration, may, in cases where it would be to the
3 permanent advantage of the child, take voluntary surrenders and
4 releases of custody and consents to adoption from the parent, parents,
5 guardians or other persons or agencies having the right or authority to
6 give such surrenders, releases or consents. Such surrenders, releases
7 or consents, when properly acknowledged before a person authorized
8 to take acknowledgments of proofs in the State of New Jersey, shall
9 be valid and binding irrespective of the age of the person giving the
10 same, and shall be irrevocable except at the discretion of the [Bureau
11 of Childrens Services] division or upon order of a court of competent
12 jurisdiction.

13 (cf: P.L.1962, c.197, s.24)

14

15 101. Section 24 of P.L.1951, c.138 (C.30:4C-24) is amended to
16 read as follows:

17 24. Whenever the director of welfare of any county or municipality
18 in this State shall be called upon to serve any child whose needs
19 cannot properly be provided for by financial assistance as made
20 available by the laws of this State, such director shall, within 24 hours
21 thereafter, give written notice thereof to the [Bureau of Childrens
22 Services] division, and shall file an application for care or custody, as
23 provided in section 11 of [this act] P.L.1951, c.138 (C.30:4C-11), or
24 shall file a complaint as provided in section 12 of [this act] P.L.1951,
25 c.138 (C.30:4C-12), or shall file a petition as provided in section 15
26 of [this act] P.L.1951, c.138 (C.30:4C-15), as the situation of the
27 child may require. Such notice shall contain all available information
28 concerning the child and his circumstances, which will enable the
29 [Bureau of Childrens Services] division to take proper action. If the
30 immediate needs of the child so require, the director shall provide for
31 his care in a suitable place, approved with reasonable promptness for
32 that purpose by the [bureau] division, paying therefor as a charge
33 against county or municipal funds until such time as the child has been
34 found eligible for care, custody or guardianship in accordance with
35 the provisions of this act.

36 (cf: P.L.1962, c.197, s.25)

37

38 102. Section 25 of P.L.1951, c.138 (C.30:4C-25) is amended to
39 read as follows:

40 25. The [Bureau of Childrens Services] division or an alternate
41 entity within the Department of Human Services designated by the
42 commissioner, by its agent or agents, shall regularly visit all children
43 under its care, custody or guardianship under the provisions of this
44 act in order to assure the maximum benefit from such services.

45 (cf: P.L.1962, c.197, s.26)

1 103. Section 26 of P.L.1951, c.138 (C.30:4C-26) is amended to
2 read as follows:

3 26. a. Whenever the circumstances of a child are such that his
4 needs cannot be adequately met in his own home, the [Division of
5 [Youth and Family Services] division may effect his placement in a
6 foster home, with or without payment of board, in a group home, or
7 in an appropriate institution if such care is deemed essential for him.
8 The [Division of Youth and Family Services] division shall make
9 every reasonable effort to select a foster home, a group home or an
10 institution of the same religious faith as the parent or parents of such
11 child.

12 b. Whenever the [Division of Youth and Family Services] division
13 shall place any child, as provided by this section, in any municipality
14 and county of this State, the child shall be deemed a resident of such
15 municipality and county for all purposes except school funding, and
16 he shall be entitled to the use and benefit of all health, recreational,
17 vocational and other facilities of such municipality and county in the
18 same manner and extent as any other child living in such municipality
19 and county.

20 c. Whenever the [Division of Youth and Family Services] division
21 shall place any child, as provided by this section, in any school district,
22 the child shall be entitled to the educational benefits of such district;
23 provided, however, that the district of residence, as determined by the
24 Commissioner of Education pursuant to law, shall be responsible for
25 paying tuition for such child to the district in which he is placed.

26 d. No municipality shall enact a planning or zoning ordinance
27 governing the use of land by, or for, single family dwellings which
28 shall, by any of its terms or provisions or by any rule or regulation
29 adopted in accordance therewith, discriminate between children who
30 are members of such single families by reason of their relationship by
31 blood, marriage or adoption, foster children placed with such families
32 in such dwellings by the [Division of Youth and Family Services]
33 division, and children placed pursuant to law with families in single
34 family dwellings known as group homes.

35 Any planning or zoning ordinance, heretofore or hereafter enacted
36 by a municipality, which violates the provisions of this section, shall
37 be invalid and inoperative.

38 (cf: P.L.1979, c.207, s.18)

39

40 104. Section 5 of P.L.1974, c.178 (C.30:4C-26a) is amended to
41 read as follows:

42 5. Subject to the "Administrative Procedure Act," P.L.1968,
43 c.410 (C.52:14B-1 et seq.), the Commissioner of [Institutions and
44 Agencies] Human Services is authorized to formulate and adopt all
45 rules and regulations necessary to effectuate the purposes of this act.

46 (cf: P.L.1974, c.178, s.5)

1 105. Section 1 of P.L.1962, c.137 (C.30:4C-26.1) is amended to
2 read as follows:

3 1. As used in this act "foster home" means and includes private
4 residences, group homes and institutions wherein any child in the care,
5 custody or guardianship of the Division of [Youth and Family
6 Services] Child Protection and Permanency, may be placed for
7 temporary or long-term care, and shall include any private residence
8 maintained by persons with whom any such child is placed for
9 adoption.

10 (cf: P.L.1974, c.78, s.3)

11
12 106. Section 2 of P.L.1962, c.137 (C.30:4C-26.2) is amended to
13 read as follows:

14 2. The [Bureau of Childrens Services] Division of Child Protection
15 and Permanency, shall establish and maintain, within the limits of
16 available appropriations, child care shelters in such numbers and at
17 such locations throughout the State as the Commissioner of [the
18 Department of Institutions and Agencies] Human Services with the
19 approval of the State Board of [Control] Human Services shall deem
20 to be necessary.

21 (cf: P.L.1964, c.102, s.12)

22
23 107. Section 3 of P.L.1962, c.137 (C.30:4C-26.3) is amended to
24 read as follows:

25 3. Such shelters shall be equipped and used for the temporary care
26 and supervision of children who are placed in the care, custody or
27 guardianship of the [Bureau of Childrens Services] Division of Child
28 Protection and Permanency, during the interim between such
29 placement and placement in a suitable foster home. Such shelters
30 shall be properly staffed to provide for child care and supervision and
31 shall contain the necessary facilities for both physical and
32 psychological examinations of such children.

33 (cf: P.L.1964, c.102, s.13)

34
35 108. Section 1 of P.L.1962, c.136 (C.30:4C-26.4) is amended to
36 read as follows:

37 1. As used in this act "foster parent" shall mean any person with
38 whom a child in the care, custody or guardianship of the [Bureau of
39 Childrens Services] Division of Child Protection and Permanency, is
40 placed for temporary or long-term care, but shall not include any
41 persons with whom a child is placed for the purpose of adoption.

42 (cf: P.L.1964, c.102, s.8)

43
44 109. Section 2 of P.L.1962, c.136 (C.30:4C-26.5) is amended to
45 read as follows:

1 2. Notwithstanding the provisions of any other law or any rule or
2 regulation of the [Bureau of Childrens Services] Department of
3 Human Services or Division of Child Protection and Permanency, no
4 agreement entered into between [said bureau] the department or
5 division and any foster parent for the care of any child in the care,
6 custody or guardianship of [said bureau] the department or division
7 shall contain any provision prohibiting the adoption of any said child
8 by the foster parent.

9 (cf: P.L.1964, c.102, s.9)

10
11 110. Section 1 of P.L.1962, c.139 (C.30:4C-26.6) is amended to
12 read as follows:

13 1. As used in this act "foster parent" shall mean any person with
14 whom a child in the care, custody or guardianship of the [Bureau of
15 Childrens Services] Division of Child Protection and Permanency, is
16 placed for temporary or long-term care, but shall not include any
17 persons with whom a child is placed for the purpose of adoption.

18 (cf: P.L.1964, c.102, s.15)

19
20 111. Section 2 of P.L.1962, c.139 (C.30:4C-26.7) is amended to
21 read as follows:

22 2. Any [husband and wife] person, who, as a foster [parents,
23 have] parent, has cared for a child continuously for a period of 2 years
24 or more, may apply to the [Bureau of Childrens Services] Division of
25 Child Protection and Permanency, for the placement of [said] the
26 child with them for the purpose of adoption and if [said] the child is
27 eligible for adoption, the [bureau] division shall give preference and
28 first consideration to their application over all other applications for
29 adoption placements.

30 (P.L.1964, c.102, s.16)

31
32 112. Section 2 of P.L.1992, c.139 (C.30:4C-26.11) is amended to
33 read as follows:

34 2. The Legislature finds and declares that:

35 a. It is in the public interest, whereby the safety of the child is of
36 paramount concern, to afford every child placed outside of his home
37 by the Division of [Youth and Family Services] Child Protection and
38 Permanency the opportunity for eventual return to his home or
39 placement in an alternative permanent home;

40 b. If it has been determined that reuniting the child with the child's
41 parents or placing the child for adoption will not serve a child's best
42 interest, the child's best interest may be served through a transfer to
43 long-term foster care custody with the child's foster parent; and

44 c. It is the purpose of this act to establish conditions and
45 procedures for the transfer of a child to long-term foster care custody.

1 (cf: P.L.1999, c.53, s.33)

1 113. Section 3 of P.L.1992, c.139 (C.30:4C-26.12) is amended to
2 read as follows:

3 3. As used in this act:

4 "Child" means a person under the age of 18 years.

5 "Child placement review board" means the county review board
6 established pursuant to section 8 of P.L.1977, c.424 (C.30:4C-57).

7 "Custody" means the general right derived from a court order or
8 otherwise to exercise continuing control over the person of the child.

9 "Division" means the Division of [Youth and Family Services]
10 Child Protection and Permanency in the Department of Human
11 Services.

12 "Foster parent" means a person other than a natural or adoptive
13 parent with whom a child in the care, custody or guardianship of the
14 division is placed by the division, or with its approval, for temporary
15 care, but shall not include a person with whom a child is placed for the
16 purpose of adoption.

17 "Guardian" means the person who exercises control over the person
18 and property of a child as established by the order of a court of
19 competent jurisdiction.

20 "Long-term foster care custody" means the legal status allowing the
21 foster parent the continuing legal right and responsibility to care for
22 the child as defined by court order and division policy until the child
23 becomes 18 years of age.

24 "Long-term foster parent" means a foster parent to whom custody
25 of the child has been transferred by court order under this act.

26 "Parent" means the biological, legal or adoptive mother or father of
27 a child.

28 (cf: P.L.1992, c.139, s.3)

29

30 114. Section 27 of P.L.1951, c.138 (C.30:4C-27) is amended to
31 read as follows:

32 27. Pursuant to the providing of care, custody or guardianship for
33 any child, in accordance with the provisions of this act, the Division of
34 Youth and Family Services] division or an alternate entity within the
35 Department of Human Services designated by the commissioner may
36 expend such sums as may be necessary for the reasonable and proper
37 cost of maintenance, including board, lodging, clothing, medical,
38 dental, and hospital care, or any other similar or specialized
39 commodity or service as the needs of any such child may require,
40 except that the division or department entity shall not maintain a
41 clothing warehouse for the distribution of clothing to children under
42 its jurisdiction. In lieu thereof, the division or department entity may
43 pay foster parents caring for children under their supervision a
44 sufficient amount to enable them to purchase necessary clothing items
45 required by the children from the local merchants of the locality in
46 which they reside. Such maintenance costs and the total cost of

1 hospital care for children as provided for herein shall be borne by the
2 State. However, no costs shall be chargeable if incurred earlier than
3 the date of the child's acceptance in care as provided in section 12
4 hereof, or earlier than the date of an order of commitment to
5 guardianship as provided in section 20 hereof. Whenever a medical or
6 psychological examination shall be required for any child as a
7 condition to providing care or custody, or whenever the division or
8 department entity avails itself of the facilities and services of any
9 privately sponsored agency or institution, the cost of the examination
10 or service shall be a proper charge against State funds, within the
11 limits of available appropriations, in the same manner and extent as
12 expenditures for maintenance.

13 In providing care, custody or guardianship for any child or in the
14 course of determining the eligibility of any child for care, custody or
15 guardianship in accordance with the provisions of this act, the division
16 or department entity may avail itself of the facilities and services of
17 any privately sponsored agency or institution, with due regard to the
18 religious background of the child, which complies with those rules and
19 regulations as established pursuant to this act, paying such fees for
20 service as may be mutually agreed upon by the division or department
21 entity and the privately sponsored agency or institution providing
22 service.

23 Whenever a child under care, custody or guardianship is in need of
24 operation, anaesthesia, diagnostic tests or treatment, the division or
25 department entity may give its consent thereto. A consent to
26 operation, anaesthesia, diagnostic tests or treatment when given by the
27 division or department entity on behalf of any child receiving care,
28 custody or guardianship shall be deemed legal and valid for all
29 purposes with respect to any person or hospital affording service to
30 such child pursuant to and in reliance upon such consent.

31 Nothing contained herein shall modify the provisions of section 6
32 of the act of which this act is amendatory.

33 (cf: P.L.1990, c.66, s.3)

34

35 115. Section 1 of P.L.1962, c.135 (C.30:4C-27.1) is amended to
36 read as follows:

37 1. As used in this act "foster parent" shall mean any person with
38 whom a child in the care, custody or guardianship of the [Bureau of
39 Childrens Services] Division of Child Protection and Permanency, is
40 placed for temporary or long-term care, but shall not include any
41 persons with whom a child is placed for the purpose of adoption.

42 (cf: P.L.1964, c.102, s.5)

43

44 116. Section 2 of P.L.1962, c.135 (C.30:4C-27.2) is amended to
45 read as follows:

46 2. Notwithstanding the provision of any other law, the maintenance

1 of a clothing warehouse and distribution center for the distribution of
 2 clothing to children in the care, custody or guardianship of the
 3 **[Bureau of Childrens Services] Division of Child Protection and**
 4 **Permanency**, shall be discontinued and in lieu thereof the **[bureau]**
 5 **division** shall increase the monthly allowance payable to any foster
 6 parent caring for any of said children in a sufficient amount to enable
 7 said foster parent to purchase the necessary clothing items required by
 8 said children from the local merchants of the locality wherein the
 9 foster parent resides.

10 (cf: P.L.1964, c.102, s.6)

11

12 117. Section 3 of P.L.2001, c.419 (C.30:4C-27.5) is amended to
 13 read as follows:

14 3. As used in this act:

15 "Child" means a person who: is either under the age of 18 or meets
 16 the criteria set forth in subsection f. of section 2 of P.L.1972, c.81
 17 (C.9:17B-2); and is under the care or custody of the division or
 18 another public or private agency authorized to place children in New
 19 Jersey.

20 "Commissioner" means the Commissioner of Human Services.

21 "Department" means the Department of Human Services.

22 "Division" means the Division of **[Youth and Family Services]**
 23 **Child Protection and Permanency** in the Department of Human
 24 Services.

25 "Foster home" or "home" means a private residence, other than a
 26 children's group home or shelter home, in which board, lodging, care
 27 and temporary out-of-home placement services are provided by a
 28 foster parent on a 24-hour basis to a child under the auspices of the
 29 division or any public or private agency authorized to place children
 30 in New Jersey.

31 "Foster parent" means a person who has been licensed pursuant to
 32 this act to provide foster care to five or fewer children, except that the
 33 division may license a foster parent to provide care for more than five
 34 children, if necessary, to keep sibling groups intact or to serve the best
 35 interests of the children in the home.

36 "License" means a document issued by the **[division] department**
 37 to a person who meets the requirements of this act to provide foster
 38 care to children in the person's home.

39 (cf: P.L.2001, c.419, s.3)

40

41 118. Section 4 of P.L.2001, c.419 (C.30:4C-27.6) is amended to
 42 read as follows:

43 4. a. A person shall not provide foster care to a child unless the
 44 person is licensed by the **[division] department** pursuant to this act.
 45 The license shall be issued to a specific person for a specific residence
 46 and shall not be transferable to another person or residence. The

1 foster parent shall maintain the license on file at the foster home.

2 b. A person desiring to provide foster care to a child shall apply to
3 the [division] department for a license in a manner and form
4 prescribed by the commissioner.

5 c. A foster parent applicant or foster parent shall be of good moral
6 character.

7 d. A foster parent applicant or foster parent, as applicable, shall:

8 (1) Complete the license application form provided by the division;

9 (2) Provide written consent for the [division] department to
10 conduct a check of [its] the division's child abuse records pursuant to
11 section 4 of P.L.1971, c.437 (C.9:6-8.11);

12 (3) Provide written consent from each adult member of the foster
13 parent applicant's household for the [division] department to conduct
14 a child abuse record information check on that person; and

15 (4) Immediately notify the [division] department when a new adult
16 becomes a resident of the foster parent applicant's or foster parent's
17 household in order to ensure that the department can conduct a
18 criminal history record background check pursuant to section 1 of
19 P.L.1985, c.396 (C.30:4C-26.8) and [the division can conduct] a child
20 abuse record information check on the new adult household member.

21 e. As a condition of securing a license, the applicant shall
22 participate in pre-service training in accordance with standards
23 adopted by the commissioner pursuant to this act.

24 f. A foster parent licensed pursuant to this act shall participate in
25 a minimum of 14 hours of in-service training in every 24-month period
26 in accordance with standards adopted by the commissioner pursuant
27 to this act.

28 (cf: P.L.2001, c.419, s.4)

29

30 119. Section 5 of P.L.2001, c.419 (C.30:4C-27.7) is amended to
31 read as follows:

32 5. a. The [division] department shall conduct a child abuse record
33 information check of the division's child abuse records to determine if
34 an incident of child abuse or neglect has been substantiated, pursuant
35 to section 4 of P.L.1971, c.437 (C.9:6-8.11), against a foster parent
36 applicant or any adult member of the foster parent applicant's
37 household, upon receipt of written consent from the foster parent
38 applicant or any adult member of the foster parent applicant's
39 household pursuant to subsection d. of section 4 of this act.

40 The [division] department shall consider, for the purposes of this
41 act, any incidents of child abuse or neglect that were substantiated on
42 or after June 29, 1995, to ensure that a foster parent applicant or adult
43 member of the foster parent applicant's household has had an
44 opportunity to appeal a substantiated finding of child abuse or neglect
45 pursuant to N.J.A.C.10:120A-1.1 et seq., except that the [division]

1 department may consider substantiated incidents prior to that date if
2 the [division] department, in its judgment, determines that the foster
3 parent applicant or adult household member poses a risk of harm in a
4 foster home. In cases involving incidents substantiated prior to June
5 29, 1995, the [division] department shall offer the foster parent
6 applicant or adult member of the foster parent applicant's household
7 an opportunity for a hearing to contest its action restricting the foster
8 parent applicant from providing foster care to a child.

9 b. (1) The [division] department shall conduct an annual on-site
10 inspection of a foster home and evaluate the foster home to determine
11 whether it complies with the provisions of this act.

12 (2) The [division] department may, without prior notice, inspect
13 and examine a foster home and inspect all documents, records, files or
14 other data required to be maintained by a foster parent pursuant to this
15 act.

16 c. If an applicant meets the requirements of this act, the [division]
17 department shall issue a license to that person.

18 d. (1) The license shall be valid for three years, subject to the
19 foster parent's continued compliance with the provisions of this act.

20 (2) The [division] department shall determine if the license shall
21 be renewed based upon the results of the annual on-site inspection and
22 evaluation of the foster home conducted pursuant to this section. If
23 the on-site inspection and evaluation indicate the foster home's full or
24 substantial compliance with the provisions of this act, the [division]
25 department shall renew the license.

26 (cf: P.L.2001, c.419, s.5)

27
28 120. Section 6 of P.L.2001, c.419 (C.30:4C-27.8) is amended to
29 read as follows:

30 6. a. The department shall ensure that a State and federal criminal
31 history record background check is conducted on a foster parent
32 applicant and any adult member of the foster parent applicant's
33 household pursuant to the provisions of section 1 of P.L.1985, c.396
34 (C.30:4C-26.8).

35 b. The Division of State Police in the Department of Law and
36 Public Safety shall promptly notify the [division] department in the
37 event a foster parent or any adult member of the foster parent's
38 household, who was the subject of a criminal history record
39 background check conducted pursuant to this section, is convicted of
40 a crime or offense in this State after the date the background check
41 was performed. Upon receipt of such notification, the [division]
42 department shall make a determination whether to suspend or revoke
43 the foster parent's license.

44 (cf: P.L.2001, c.419, s.6)

1 121. Section 7 of P.L.2001, c.419 (C.30:4C-27.9) is amended to
2 read as follows:

3 7. The [division] department may deny, suspend or revoke a
4 license for good cause, including, but not limited to:

5 a. Failure of a foster parent applicant or foster parent to comply
6 with the provisions of this act;

7 b. Failure of a foster parent applicant or any adult member of the
8 foster parent applicant's household to consent to, or cooperate in, the
9 securing of a criminal history record background check pursuant to
10 section 1 of P.L.1985, c.396 (C.30:4C-26.8) or a [division] child
11 abuse record information check pursuant to section 4 of P.L.1971,
12 c.437 (C.9:6-8.11);

13 c. The conviction of a foster parent applicant or any adult member
14 of the foster parent applicant's household of a crime enumerated under
15 section 1 of P.L.1985, c.396 (C.30:4C-26.8);

16 d. A determination that an incident of child abuse or neglect by a
17 foster parent applicant or any adult member of the foster parent
18 applicant's household has been substantiated, except that the
19 [division] department may issue the license if the [division]
20 department determines that the foster parent applicant or adult
21 household member poses no continuing risk of harm to the child and
22 the issuance of the license is in the child's best interests;

23 e. Violation of the terms and conditions of a license;

24 f. Use of fraud or misrepresentation by a foster parent applicant or
25 foster parent in obtaining a license;

26 g. Refusal by a foster parent applicant or foster parent to furnish
27 the [division] department with information, files, reports or records
28 required for compliance with the provisions of this act;

29 h. Refusal by a foster parent applicant or foster parent to permit an
30 inspection of a foster home by an authorized representative of the
31 [division] department; and

32 i. Any conduct, engaged in or permitted, which adversely affects
33 or presents a serious hazard to the education, health, safety, general
34 well-being or physical, emotional and social development of the child
35 residing in the foster home, or which otherwise fails to comply with
36 the standards required for the provision of foster care to a child and
37 the maintenance of a foster home.

38 (cf: P.L.2001, c.419, s.7)

39
40 122. Section 8 of P.L.2001, c.419 (C.30:4C-27.10) is amended to
41 read as follows:

42 8. Before denying, suspending or revoking a license, the [division]
43 department shall give notice to a foster parent applicant or foster
44 parent personally or by mail to the last known address of the foster
45 parent applicant or foster parent with return receipt requested. The
46 notice shall afford the foster parent applicant or foster parent the

1 opportunity to be heard and to contest the [division's] department's
2 action. The hearing shall be conducted in accordance with the
3 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
4 seq.).

5 (cf: P.L.2001, c.419, s.8)

6

7 123. Section 9 of P.L.2001, c.419 (C.30:4C-27.11) is amended to
8 read as follows:

9 9. A person aggrieved by a final decision of the [division]
10 department is entitled to seek judicial review in the Appellate Division
11 of the Superior Court. All petitions for review shall be filed in
12 accordance with the Rules of Court.

13 (cf: P.L.2001, c.419, s.9)

14

15 124. Section 11 of P.L.2001, c.419 (C.30:4C-27.13) is amended
16 to read as follows:

17 11. a. Notwithstanding the provisions of this act to the contrary,
18 a foster parent certified by the [division] Division of Youth and
19 Family Services on or prior to the effective date of this act may
20 continue to provide foster care to a child until the [division]
21 department conducts an on-site inspection and reevaluation of the
22 foster parent's home, no later than two years following the date of the
23 home's last certification inspection and reevaluation, to determine
24 whether the home complies with the provisions of this act. If the
25 on-site inspection and reevaluation indicate the foster home's full or
26 substantial compliance with the provisions of this act, [the division
27 shall issue] a license shall be issued to the foster parent.

28 b. [A foster parent who was not certified by the division on or
29 prior to the effective date of this act shall apply to the division for a
30 license within 90 days of the effective date of this act and may
31 continue to provide foster care to a child until the division conducts an
32 on-site inspection and evaluation of the foster parent's home to
33 determine whether the home complies with the provisions of this act.
34 If the on-site inspection and evaluation indicate the foster home's full
35 or substantial compliance with the provisions of this act, the division
36 shall issue a license to the foster parent] (Deleted by amendment,
37 P.L. , c. (C.) (pending before the Legislature as this bill)).
38 (cf: P.L.2001, c.419, s.11)

39

40 125. Section 13 of P.L.2001, c.419 (C.30:4C-27.15) is amended
41 to read as follows:

42 13. a. The commissioner shall adopt rules and regulations pursuant
43 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
44 et seq.) to carry out the purposes of this act.

45 The regulations shall include standards governing: the safety and
46 adequacy of the physical premises of a foster home; the health, safety,

1 general well-being and physical, emotional, social and educational
2 needs of a child in foster care; the training of a foster parent; the
3 responsibility of a foster parent to participate in the case plan of a
4 child in foster care and to allow access by the division or an alternate
5 entity within the department designated by the commissioner to the
6 child; the maintenance and confidentiality of records and furnishing of
7 required information to the division and department entity; the
8 transportation of a child in foster care; and the provision of other
9 needed services on behalf of a child in foster care. The commissioner
10 shall also adopt rules and regulations for license application, issuance,
11 denial, suspension and revocation.

12 b. Nothing in this act shall be construed to permit the department
13 to adopt any code or standard that exceeds the standards established
14 pursuant to the "State Uniform Construction Code Act," P.L.1975,
15 c.217 (C.52:27D-119 et seq.) and the "Uniform Fire Safety Act,"
16 P.L.1983, c.383 (C.52:27D-192 et seq.).
17 (cf: P.L.2001, c.419, s.13)

18

19 126. Section 28 of P.L.1951, c.138 (C.30:4C-28) is amended to
20 read as follows:

21 28. The [Bureau of Childrens Services] division or an alternate
22 entity within the department designated by the commissioner may at
23 any time discharge from its care, custody or guardianship any child, if
24 in the opinion of [such bureau] the division or department entity the
25 best interests of the child will be promoted thereby.
26 (cf: P.L.1962, c.197, s.29)

27

28 127. Section 29 of P.L.1951, c.138 (C.30:4C-29) is amended to
29 read as follows:

30 29. Subject to the provisions of section 30 [hereof] of P.L.1951,
31 c.138 (C.30:4C-30), payments for maintenance shall be made by the
32 [Bureau of Childrens Services] division. The [Bureau of Childrens
33 Services] department is hereby empowered to receive from the State
34 Treasurer and from the county treasurer of each county such sums as
35 shall be appropriated for the purposes of this act, and shall cause such
36 sums to be set up in a special account or accounts subject to
37 disbursement by the [Bureau of Childrens Services] department.
38 (cf: P.L.1962, c.197, s.30)

39

40 128. Section 1 of P.L.1962, c.142 (C.30:4C-29.1) is amended to
41 read as follows:

42 1. a. In any case in which the Department of Human Services,
43 through [the Division of Youth and Family Services] any of its
44 divisions or organizational units, is providing care or custody for any
45 child when the child is in a foster home, any legally responsible person
46 of the child, if of sufficient financial ability, is liable for the full costs

1 of maintenance of the child incurred by the [division] department. If
2 the legally responsible person is of insufficient financial ability, the
3 person is liable in an amount which a court of competent jurisdiction
4 directs according to a scheduled rate approved by the [division]
5 department. Nothing contained herein shall prevent the legally
6 responsible person from voluntarily executing an agreement for
7 payment to the [division] department for the costs of maintenance of
8 the child receiving care or custody when the child is in a foster home.

9 b. The [division] department shall have a lien against the property
10 of the legally responsible person in an amount equal to the amount to
11 be paid, which lien shall have priority over all unrecorded
12 encumbrances.

13 c. If the legally responsible person fails to reimburse the
14 department[, through the Division of Youth and Family Services] for
15 the costs of maintenance of a child incurred by the [division]
16 department when the child is in a foster home, a court of competent
17 jurisdiction, upon the complaint of the Commissioner of Human
18 Services, may summon the legally responsible person and other
19 witnesses, and may order the legally responsible person to pay an
20 amount to the department, according to a scheduled rate approved by
21 the [division] department.

22 d. In any case in which the department[, through the Division of
23 Youth and Family Services,] has agreed to provide youth facilities aid
24 to a public, private or voluntary agency pursuant to this act, the
25 [division] department shall have a lien against the property of any
26 person, persons or agency so contracting, in an amount equal to the
27 amount or amounts so contracted to be paid, which lien shall have
28 priority over all unrecorded encumbrances. Such lien shall be reduced
29 for each year of service provided by the agency at a rate to be
30 negotiated by the [division] department and the agency, but in no case
31 more than 20% a year; provided, however, that annual reductions
32 shall not exceed [\$10,000.00] \$10,000.

33 (cf: P.L.1985, c.8, s.4)

34
35 129. Section 2 of P.L.1962, c.142 (C.30:4C-29.2) is amended to
36 read as follows:

37 2. At any time during the period during which said child is within
38 the care and custody of the [division] Division of Child Protection
39 and Permanency or Department of Human Services and within two
40 years after the date upon which said care and custody is terminated,
41 the division or department, through any officer or employee authorized
42 by it so to do, may execute and file a certificate with the county clerk,
43 or if there be such an officer in the county, with the register of deeds
44 and mortgages of the county, or with the clerk of the Superior Court,
45 as the case may be, which certificate shall state the name of the child,

1 the date when the child came under the care and custody of the
2 division or department and the date of the agreement, if any, the name
3 of the person or persons by whom the agreement was made, if any, and
4 the sum or sums which said person or persons agreed or is liable to
5 pay to the division or department for the support and maintenance of
6 said child, and the amount due the division or department for such
7 service at the time of the filing of the certificate, and the rate of
8 accumulation, if any shall occur thereafter, and the person or persons
9 from whom such sum or sums are or will become due, and upon the
10 filing of said certificate the lien shall immediately attach to and become
11 binding upon all real property in the ownership of the person or
12 persons against whom it is filed in the county, if it is filed in the
13 county, or wherever situate in the State, if it is filed in the Superior
14 Court, and it shall have the force and effect of a judgment at law.

15 At any time after the signing of an agreement to provide youth
16 facilities aid under this act for the duration of both that agreement and
17 any service agreement, the division or department, through any officer
18 or employee authorized so to do, may execute and file a lien certificate
19 with the county clerk or with the clerk of the Superior Court, which
20 shall state the names and addresses of both parties, the date of the
21 signing of the contract, the sum or sums which were disbursed to the
22 agency in the expectation that the agency would provide contract
23 services to the division or department in the future, and the amount
24 due the division or department at the time of filing of said certificate.
25 (cf: P.L.1985, c.8, s.5)

26

27 130. Section 4 of P.L.1962, c.142 (C.30:4C-29.4) is amended to
28 read as follows:

29 4. The lien shall become binding upon any goods, rights, credits,
30 chattels, moneys or effects which are held, for the present or
31 subsequent use, of the person against whom the lien is claimed, by any
32 person, firm or corporation, after notice of the existence of the lien
33 forwarded by certified mail to said person, firm or corporation, who
34 or which shall thereafter be precluded from disposing of said property
35 rights until said lien is satisfied or the [bureau] Division of Child
36 Protection and Permanency or Department of Human Services
37 consents thereto and any person, firm or corporation disposing of such
38 properties or moneys after receipt of such notice of lien shall be liable
39 to the [bureau] division or department for the value of such properties
40 or moneys so disposed of, except that when the notice of the lien is
41 served upon a banking institution the lien shall be effective against
42 such banking institution only in the amount of the accumulated
43 delinquent maintenance stated therein.

44 (cf: P.L.1964, c.102, s.23)

45

46 131. Section 5 of P.L.1962, c.142 (C.30:4C-29.5) is amended to

1 read as follows:

2 5. The [bureau] Division of Child Protection and Permanency or
3 Department of Human Services is authorized to compromise and make
4 settlement of any claim for which any lien is filed under the provisions
5 of this act and the making and consummation of any such compromise
6 shall be sufficient authorization for the discharge thereof.
7 (cf: P.L.1964, c.102, s.24)

8

9 132. Section 6 of P.L.1962, c.142 (C.30:4C-29.6) is amended to
10 read as follows:

11 6. Any such lien may be discharged by filing in the office in which
12 the certificate of lien is filed, a certificate setting forth that said lien is
13 discharged of record, signed and acknowledged by the duly authorized
14 officer or employee of the [bureau] Department of Human Services.
15 (cf: P.L.1964, c.102, s.25)

16

17 133. Section 31 of P.L.1951, c.138 (C.30:4C-31) is amended to
18 read as follows:

19 31. The State Board of [Control] Human Services or its duly
20 authorized representative is hereby empowered to negotiate with the
21 Federal Government to secure such financial assistance for the
22 carrying out of this act as may be provided in the Federal Social
23 Security Act, and the State Treasurer is hereby empowered to receive
24 such moneys and shall cause them to be placed in the account or
25 accounts of the [Bureau of Childrens Services] department, acting as
26 the agent of the State Board of [Control] Human Services for the
27 purpose of carrying into effect the provisions of this act.

28 The State Board of [Control] Human Services is further
29 empowered to organize the work of the [Department of Institutions
30 and Agencies] department in behalf of children to comply, in any
31 manner consistent with law, with the reasonable requirements of the
32 Federal Department of Health[, Education and Welfare] and Human
33 Services pursuant to Federal law, and to cooperate in extending and
34 strengthening public welfare services for the protection and care of
35 homeless, dependent and neglected children and children in danger of
36 becoming delinquent.

37 (cf: P.L.1962, c.197, s.32)

38

39 134. Section 32 of P.L.1951, c.138 (C.30:4C-32) is amended to
40 read as follows:

41 32. Whenever a child receiving care, custody, or guardianship as
42 provided by this act has died, and an investigation by the [Division of
43 Youth and Family Services] division discloses that there are
44 insufficient funds from any other source to provide proper burial,
45 [such] the division shall authorize the expenditure of an amount

1 reasonably necessary to provide proper burial for such child, and such
2 amount shall be a proper charge against State funds, within the limits
3 of available appropriations, in the same manner and extent as
4 expenditures for maintenance.

5 The amount reasonably necessary to provide proper burial shall be
6 determined by the average cost for a proper burial and funeral charged
7 by funeral directors in the locality in which the child is buried.

8 (cf: P.L.1990, c.66, s.5)

9
10 135. Section 33 of P.L.1951, c.138 (C.30:4C-33) is amended to
11 read as follows:

12 33. The [Bureau of Childrens Services] division or department
13 may compromise and settle any claim due or which may become due
14 such bureau for reimbursement of moneys paid to any individual or
15 organization for maintenance of a child. A memorandum of the
16 compromise and settlement shall be entered in the official records of
17 the [bureau] division or department.

18 (cf: P.L.1962, c.197, s.34)

19
20 136. Section 34 of P.L.1951, c.138 (C.30:4C-34) is amended to
21 read as follows:

22 34. Whenever the [Bureau of Childrens Services] division or an
23 alternate entity within the department designated by the commissioner
24 shall recover or receive reimbursement of any moneys paid to any
25 individual or organization for the maintenance of a child, the moneys
26 so recovered or received shall be credited to the State treasury or to
27 the Federal Government in the same proportion as they were charged
28 in the original instance. The [Bureau of Childrens Services] division
29 or department entity is hereby authorized to take all necessary and
30 proper action under the laws of this State for the recovery of any such
31 moneys wrongfully received or retained by any individual or
32 organization, or for the recovery from the person or persons
33 responsible under the laws of this State for the support of such child
34 the value of maintenance furnished to such child.

35 (cf: P.L.1962, c.197, s.35)

36
37 137. Section 35 of P.L.1951, c.138 (C.30:4C-35) is amended to
38 read as follows:

39 35. The [Bureau of Childrens Services] division or an alternate
40 entity within the department designated by the commissioner is
41 authorized to retain any voluntary contributions of money heretofore
42 received by it, and to receive future contributions. All such
43 contributions, whether already received or hereafter received, shall be
44 kept in a separate fund, and shall be used only upon order of the
45 [bureau] division or department entity for the purposes for which the
46 contributions were made, and such funds shall be in the custody and

1 control of the [Bureau of Childrens Services] division or department
2 entity; provided, however, that any such contribution made to the
3 [bureau] division or department entity, the original purpose of which
4 is no longer practicable or possible of achievement, may be used by the
5 [bureau] division or department entity, at its discretion, for the
6 general benefit and welfare of children under its supervision.
7 (cf: P.L.1962, c.197, s.36)

8
9 138. Section 36 of P.L.1951, c.138 (C.30:4C-36) is amended to
10 read as follows:

11 36. On application in writing by the [Bureau of Childrens
12 Services] division, the State Treasurer on warrant of the Director of
13 the Division of Budget and Accounting may pay to the [bureau]
14 division from its annual appropriation such amount not exceeding
15 \$[5,000.00] 5,000 as may be necessary to establish a petty cash fund
16 for the payment of traveling expenses and such other current expenses
17 as require a prompt cash outlay.

18 The [Bureau of Childrens Services] division shall file an account
19 with vouchers attached showing all expenditures from its petty cash
20 fund and on receipt of the amount thereof from the State Treasurer
21 shall reimburse the fund. Any questions with reference to the
22 allowance, expenditure, accounting and reimbursement of petty cash
23 moneys shall be finally determined by ruling of the Director of the
24 Division of Budget and Accounting.
25 (cf: P.L.1962, c.197, s.37)

26
27 139. Section 37 of P.L.1951, c.138 (C.30:4C-37) is amended to
28 read as follows:

29 37. Whenever the [Bureau of Childrens Services] division shall
30 have issued, or shall hereafter issue, any checks, drafts or warrants to
31 be paid from moneys received from the Federal Government, the
32 State, or any county of this State for the cost of maintenance, and
33 such checks, drafts or warrants shall not be cashed for a period of 1
34 year from the date of issue, the following procedure shall be taken:

35 (a) The [Bureau of Childrens Services] division shall give due
36 notice to the bank on which such checks, drafts or warrants were
37 issued that no payment shall be made thereon.

38 (b) The [Bureau of Childrens Services] division shall then from
39 time to time deposit in a special fund moneys in an amount equal to
40 that represented by such checks, drafts or warrants, which moneys
41 shall be held for the payments of such checks, drafts or warrants.
42 Such special fund shall be in the custody and control of the [Bureau
43 of Childrens Services] division.

44 (c) The moneys so deposited shall be maintained in such special
45 fund for a period of 6 years from the date of deposit, and, if still

1 unclaimed after that time by anyone having a legal right thereto, shall
2 be credited to the Federal Government, the State, or any county of this
3 State in the same proportion as such moneys were received by the
4 [Bureau of Childrens Services] division in the original instance.

5 Whenever the [Bureau of Childrens Services] division shall have
6 credited any moneys to the Federal Government, the State or any
7 county of this State pursuant to the provisions of this section, it shall
8 thereupon be free of all obligations as to those checks, drafts or
9 warrants for which such moneys have been held for payment.

10 (cf: P.L.1962, c.197, s.38)

11
12 140. Section 1 of P.L.1962, c.206 (C.30:4C-41) is amended to
13 read as follows:

14 1. "Approved agency" as used herein means a legally constituted
15 agency having its principal office within this State, which holds a valid
16 certificate of approval from the Department of [Institutions and
17 Agencies] Human Services, as provided by law, to place children in
18 New Jersey for purposes of adoption.

19 (cf: P.L.1962, c.206, s.1)

20
21 141. Section 2 of P.L.1962, c.206 (C.30:4C-42) is amended to
22 read as follows:

23 2. The [Bureau of Childrens Services,] Division of Child
24 Protection and Permanency is hereby authorized and empowered,
25 subject to the availability of appropriations therefor, to establish an
26 Adoption Resource Exchange, the services of which shall be available
27 only to approved agencies as a further resource to facilitate placement
28 of children for adoption by and through such agencies.

29 (cf: P.L.1964, c.102, s.26)

30
31 142. Section 3 of P.L.1962, c.206 (C.30:4C-43) is amended to
32 read as follows:

33 3. The Adoption Resource Exchange authorized by this act shall
34 not itself engage in the placement of children for adoption nor shall it
35 be construed as a substitute for other local community resources,
36 whether public or voluntary. It shall be a facility whereby the [Bureau
37 of Childrens Services] Division of Child Protection and Permanency
38 and other approved agencies may mutually share and exchange
39 information concerning children available for adoption and homes
40 available for the placement of adoptive children.

41 (cf: P.L.1964, c.102, s.27)

42
43 143. Section 4 of P.L.1962, c.206 (C.30:4C-44) is amended to
44 read as follows:

45 4. The [Bureau of Childrens Services] Division of Child Protection
46 and Permanency is hereby authorized and empowered to establish

1 rules, regulations and procedures necessary to accomplish the
2 purposes of this act.

3 (cf: P.L.1964, c.102, s.28)

4

5 144. Section 2 of P.L.1973, c.81 (C.30:4C-46) is amended to read
6 as follows:

7 2. The Division of [Youth and Family Services] Child Protection
8 and Permanency shall make payments to adoptive parents on behalf of
9 a child placed for adoption by the division whenever:

10 a. The child because of physical or mental condition, race, age, or
11 membership in a sibling group, or for any other reason falls into the
12 category of a child hard to place for adoption;

13 b. The adoptive family is capable of providing the permanent family
14 relationships needed by the child; and

15 c. Except in situations involving adoption by a child's foster parent,
16 there has been a reasonable effort to place the child in an adoptive
17 setting without providing a subsidy.

18 Payments shall be made on behalf of a child placed for adoption by
19 the [Division of Youth and Family Services] division except that
20 whenever a child who would otherwise be eligible for subsidy payment
21 is in the care of an approved New Jersey adoption agency pursuant to
22 P.L.1977, c.367 (C.9:3-37 et seq.) a child shall, upon application by
23 the agency and satisfaction of the regular requirements of the adoption
24 subsidy program, be approved for participation in the adoption subsidy
25 program. In any case the division may approve payment in
26 subsidization of adoption for a child without legal transfer of care or
27 custody of the child to the division. The division shall adopt
28 regulations for administration of this program with respect to these
29 children, except that all children are evaluated for eligibility in the
30 same manner as children already under the care, custody or
31 guardianship of the division.

32 (cf: P.L.1983, c.484, s.1)

33

34 145. Section 3 of P.L.1973, c.81 (C.30:4C-47) is amended to read
35 as follows:

36 3. Payments in subsidization of adoption shall include but are not
37 limited to the maintenance costs, medical and surgical expenses, and
38 other costs incidental to the care, training and education of the child.
39 Such payments may not exceed the cost of providing comparable
40 assistance in foster care and shall not be made after the adoptive child
41 becomes 18 years of age, except that payments not to exceed 80% of
42 the costs shall be made until the child becomes 21 years of age when
43 it is determined by the Division of [Youth and Family Services] Child
44 Protection and Permanency that the needs of the child cannot be
45 adequately met without the payments.

46 (cf: P.L.1983, c.484, s.2)

1 146. Section 4 of P.L.1973, c.81 (C.30:4C-48) is amended to read
2 as follows:

3 4. Qualification for payments in subsidization of adoption shall be
4 determined and approved by the Division of [Youth and Family
5 Services] Child Protection and Permanency prior to the completion
6 of the adoption proceeding, and may be redetermined annually
7 thereafter. No payments shall be made for any child who the division
8 has determined was brought into this State for the sole purpose of
9 qualifying for an adoption subsidy pursuant to P.L.1973, c.81
10 (C.30:4C-45 et seq.).
11 (cf: P.L.1983, c.484, s.3)

12
13 147. Section 5 of P.L.1973, c.81 (C.30:4C-49) is amended to read
14 as follows:

15 5. The Division of [Youth and Family Services] Child Protection
16 and Permanency shall make all necessary rules and regulations for
17 administering the program for payments in subsidization of adoptions.
18 (cf: P.L.1983, c.484, s.4)

19
20 148. Section 2 of P.L.1977, c.424 (C.30:4C-51) is amended to
21 read as follows:

22 2. The Legislature declares that it is in the public interest, whereby
23 the safety of children shall be of paramount concern, to afford every
24 child placed outside his home by the Division of [Youth and Family
25 Services] Child Protection and Permanency with the opportunity for
26 eventual return to his home or placement in an alternative permanent
27 home; that it is the obligation of the State to promote this end through
28 effective planning and regular review of each child's placement; and
29 that it is the purpose of this act to establish procedures for both
30 administrative and judicial review of each child's placement in order to
31 ensure that such placement ensures the safety and health and serves the
32 best interest of the child.

33 (cf: P.L.1999, c.53, s.37)

34
35 149. Section 3 of P.L.1977, c.424 (C.30:4C-52) is amended to
36 read as follows:

37 3. As used in this act, unless the context indicates otherwise:

38 a. "Child" means any person less than 18 years of age;

39 b. "Child placed outside his home" means a child under the care,
40 custody or guardianship of the division, through voluntary agreement
41 or court order, who resides in a foster home, group home, residential
42 treatment facility, shelter for the care of abused or neglected children
43 or juveniles considered as juvenile-family crisis cases, or independent
44 living arrangement operated by or approved for payment by the
45 division, or a child who has been placed by the division in the home of
46 a person who is not related to the child and does not receive any

1 payment for the care of the child from the division, or a child placed
2 by the court in juvenile-family crisis cases pursuant to P.L.1982, c.77
3 (C.2A:4A-20 et seq.), but does not include a child placed by the court
4 in the home of a person related to the child who does not receive any
5 payment from the division for the care of the child;

6 c. "County of supervision" means the county in which the division
7 has established responsibility for supervision of the child;

8 d. "Division" means the Division of [Youth and Family Services]
9 Child Protection and Permanency in the Department of Human
10 Services;

11 e. "Temporary caretaker" means a foster parent as defined in
12 section 1 of P.L.1962, c.136 (C.30:4C-26.4) or a director of a group
13 home or residential treatment facility;

14 f. "Designated agency" means an agency designated by the court
15 pursuant to P.L.1982, c.80 (C.2A:4A-76 et seq.) to develop a family
16 services plan.

17 g. "Department" means the Department of Human Services.
18 (cf: P.L.1999, c.53, s.38)

19
20 150. Section 2 of P.L.1991, c.448 (C.30:4C-53.2) is amended to
21 read as follows:

22 2. For purposes of this act, the terms "repeated placement into
23 foster care" and "placed again into foster care" shall apply to a child
24 who has been placed in the custody of the Division of [Youth and
25 Family Services] Child Protection and Permanency for placement in
26 foster care by the family part of the Chancery Division of the Superior
27 Court or as a result of a voluntary placement agreement pursuant to
28 P.L.1974, c.119 (C.9:6-8.21 et seq.), released into the custody of his
29 parents or legally responsible guardian at the conclusion of the
30 placement and is once again temporarily removed from his place of
31 residence and placed under the division's care and supervision.

32 (cf: P.L.1991, c.448, s.2)

33
34 151. Section 10 of P.L.1982, c.24 (C.30:4C-58.1) is amended to
35 read as follows:

36 10. When a child is placed in a home for the purpose of adoption,
37 the [division] Division of Child Protection and Permanency shall
38 notify the family part of the Chancery Division of the Superior Court
39 in the child's county of supervision in writing of the placement. Upon
40 receipt of the notice, the board shall not schedule further reviews of
41 the case unless:

42 a. The child is removed from the adoptive home;

43 b. The complaint for adoption was not filed within eight months
44 of the placement and the filing of the complaint is not imminent; or

45 c. The plan for the child was modified so that immediate adoption
46 by the stated adoptive parents no longer is the goal.

1 The division shall send the court and the board a status report on
2 the case every four months. When a complaint for adoption has been
3 filed, the division shall inform the court and no further board reviews
4 shall be held while that action is pending.

5 When a judgment of adoption has been entered the court shall
6 dismiss the complaint pursuant to section 4 of P.L.1977, c.424
7 (C.30:4C-53).

8 If a child is placed in an adoptive home prior to the completion of
9 the initial court review, the court shall retain jurisdiction to complete
10 the review.

11 (cf: P.L.1987, c.252, s.6)

12

13 152. Section 7 of P.L.2001, c.250 (C.30:4C-84) is amended to
14 read as follows:

15 7. As used in sections 7 through 10 of P.L.2001, c.250 (C.30:4C-84
16 et seq.):

17 "Caregiver" means a person over 18 years of age, other than a
18 child's parent, who has a kinship relationship with the child and has
19 been providing care and support for the child, while the child has been
20 residing in the caregiver's home, for at least the last 12 consecutive
21 months.

22 "Child" means a person under 18 years of age, except as otherwise
23 provided in P.L.2001, c.250 (C.3B:12A-1 et al.).

24 "Commissioner" means the Commissioner of Human Services.

25 "Court" means the Superior Court, Chancery Division, Family Part.

26 "Division" means the Division of **[Youth and Family Services]**
27 Child Protection and Permanency in the Department of Human
28 Services.

29 "Kinship caregiver assessment" means a written report prepared in
30 accordance with the provisions of P.L.2001, c.250 (C.3B:12A-1 et al.)
31 and pursuant to regulations adopted by the commissioner.

32 "Kinship legal guardian" means a caregiver who is willing to assume
33 care of a child due to parental incapacity, with the intent to raise the
34 child to adulthood, and who is appointed the kinship legal guardian of
35 the child by the court pursuant to P.L.2001, c.250 (C.3B:12A-1 et al.).
36 A kinship legal guardian shall be responsible for the care and
37 protection of the child and for providing for the child's health,
38 education and maintenance.

39 "Kinship relationship" means a family friend or a person with a
40 biological or legal relationship with the child.

41 (cf: P.L.2001, c.250, s.7)

42

43 153. Section 3 of P.L.1968, c.413 (C.30:4D-3) is amended to read
44 as follows:

45 3. Definitions. As used in this act, and unless the context
46 otherwise requires:

- 1 a. "Applicant" means any person who has made application for
- 2 purposes of becoming a "qualified applicant."
- 3 b. "Commissioner" means the Commissioner of Human Services.
- 4 c. "Department" means the Department of Human Services, which
- 5 is herein designated as the single State agency to administer the
- 6 provisions of this act.
- 7 d. "Director" means the Director of the Division of Medical
- 8 Assistance and Health Services.
- 9 e. "Division" means the Division of Medical Assistance and Health
- 10 Services.
- 11 f. "Medicaid" means the New Jersey Medical Assistance and Health
- 12 Services Program.
- 13 g. "Medical assistance" means payments on behalf of recipients to
- 14 providers for medical care and services authorized under this act.
- 15 h. "Provider" means any person, public or private institution,
- 16 agency or business concern approved by the division lawfully
- 17 providing medical care, services, goods and supplies authorized under
- 18 this act, holding, where applicable, a current valid license to provide
- 19 such services or to dispense such goods or supplies.
- 20 i. "Qualified applicant" means a person who is a resident of this
- 21 State, and either a citizen of the United States or an eligible alien, and
- 22 is determined to need medical care and services as provided under this
- 23 act, with respect to whom the period for which eligibility to be a
- 24 recipient is determined shall be the maximum period permitted under
- 25 federal law, and who:
- 26 (1) Is a dependent child or parent or caretaker relative of a
- 27 dependent child who would be, except for resources, eligible for the
- 28 [aid to] temporary assistance for needy families [with dependent
- 29 children] program under the State Plan for Title IV-A of the federal
- 30 Social Security Act as of July 16, 1996;
- 31 (2) Is a recipient of Supplemental Security Income for the Aged,
- 32 Blind and Disabled under Title XVI of the Social Security Act;
- 33 (3) Is an "ineligible spouse" of a recipient of Supplemental Security
- 34 Income for the Aged, Blind and Disabled under Title XVI of the Social
- 35 Security Act, as defined by the federal Social Security Administration;
- 36 (4) Would be eligible to receive Supplemental Security Income
- 37 under Title XVI of the federal Social Security Act or, without regard
- 38 to resources, would be eligible for the [aid to] temporary assistance
- 39 for needy families [with dependent children] program under the State
- 40 Plan for Title IV-A of the federal Social Security Act as of July 16,
- 41 1996, except for failure to meet an eligibility condition or requirement
- 42 imposed under such State program which is prohibited under Title
- 43 XIX of the federal Social Security Act such as a durational residency
- 44 requirement, relative responsibility, consent to imposition of a lien;
- 45 (5) (Deleted by amendment, P.L.2000, c.71).
- 46 (6) Is an individual under 21 years of age who, without regard to

1 resources, would be, except for dependent child requirements, eligible
2 for the [aid to] temporary assistance for needy families [with
3 dependent children] program under the State Plan for Title IV-A of
4 the federal Social Security Act as of July 16, 1996, or groups of such
5 individuals, including but not limited to, children in foster placement
6 under supervision of the Division of [Youth and Family Services]
7 Child Protection and Permanency or an alternate entity within the
8 department designated by the commissioner whose maintenance is
9 being paid in whole or in part from public funds, children placed in a
10 foster home or institution by a private adoption agency in New Jersey
11 or children in intermediate care facilities, including developmental
12 centers for the developmentally disabled, or in psychiatric hospitals;

13 (7) Would be eligible for the Supplemental Security Income
14 program, but is not receiving such assistance and applies for medical
15 assistance only;

16 (8) Is determined to be medically needy and meets all the eligibility
17 requirements described below:

18 (a) The following individuals are eligible for services, if they are
19 determined to be medically needy:

20 (i) Pregnant women;

21 (ii) Dependent children under the age of 21;

22 (iii) Individuals who are 65 years of age and older; and

23 (iv) Individuals who are blind or disabled pursuant to either 42
24 C.F.R.435.530 et seq. or 42 C.F.R.435.540 et seq., respectively.

25 (b) The following income standard shall be used to determine
26 medically needy eligibility:

27 (i) For one person and two person households, the income standard
28 shall be the maximum allowable under federal law, but shall not exceed
29 133 1/3% of the State's payment level to two person households under
30 the aid to families with dependent children program under the State
31 Plan for Title IV-A of the federal Social Security Act in effect as of
32 July 16, 1996; and

33 (ii) For households of three or more persons, the income standard
34 shall be set at 133 1/3% of the State's payment level to similar size
35 households under the aid to families with dependent children program
36 under the State Plan for Title IV-A of the federal Social Security Act
37 in effect as of July 16, 1996.

38 (c) The following resource standard shall be used to determine
39 medically needy eligibility:

40 (i) For one person households, the resource standard shall be 200%
41 of the resource standard for recipients of Supplemental Security
42 Income pursuant to 42 U.S.C.s.1382(1)(B);

43 (ii) For two person households, the resource standard shall be
44 200% of the resource standard for recipients of Supplemental Security
45 Income pursuant to 42 U.S.C.s.1382(2)(B);

46 (iii) For households of three or more persons, the resource

1 standard in subparagraph (c)(ii) above shall be increased by \$100.00
2 for each additional person; and

3 (iv) The resource standards established in (i), (ii), and (iii) are
4 subject to federal approval and the resource standard may be lower if
5 required by the federal Department of Health and Human Services.

6 (d) Individuals whose income exceeds those established in
7 subparagraph (b) of paragraph (8) of this subsection may become
8 medically needy by incurring medical expenses as defined in 42
9 C.F.R.435.831(c) which will reduce their income to the applicable
10 medically needy income established in subparagraph (b) of paragraph
11 (8) of this subsection.

12 (e) A six-month period shall be used to determine whether an
13 individual is medically needy.

14 (f) Eligibility determinations for the medically needy program shall
15 be administered as follows:

16 (i) County welfare agencies and other entities designated by the
17 commissioner are responsible for determining and certifying the
18 eligibility of pregnant women and dependent children. The division
19 shall reimburse county welfare agencies for 100% of the reasonable
20 costs of administration which are not reimbursed by the federal
21 government for the first 12 months of this program's operation.
22 Thereafter, 75% of the administrative costs incurred by county welfare
23 agencies which are not reimbursed by the federal government shall be
24 reimbursed by the division;

25 (ii) The division is responsible for certifying the eligibility of
26 individuals who are 65 years of age and older and individuals who are
27 blind or disabled. The division may enter into contracts with county
28 welfare agencies to determine certain aspects of eligibility. In such
29 instances the division shall provide county welfare agencies with all
30 information the division may have available on the individual.

31 The division shall notify all eligible recipients of the Pharmaceutical
32 Assistance to the Aged and Disabled program, P.L.1975, c.194
33 (C.30:4D-20 et seq.) on an annual basis of the medically needy
34 program and the program's general requirements. The division shall
35 take all reasonable administrative actions to ensure that
36 Pharmaceutical Assistance to the Aged and Disabled recipients, who
37 notify the division that they may be eligible for the program, have their
38 applications processed expeditiously, at times and locations convenient
39 to the recipients; and

40 (iii) The division is responsible for certifying incurred medical
41 expenses for all eligible persons who attempt to qualify for the
42 program pursuant to subparagraph (d) of paragraph (8) of this
43 subsection;

44 (9) (a) Is a child who is at least one year of age and under 19 years
45 of age and, if older than six years of age but under 19 years of age, is
46 uninsured; and

1 (b) Is a member of a family whose income does not exceed 133%
 2 of the poverty level and who meets the federal Medicaid eligibility
 3 requirements set forth in section 9401 of Pub.L.99-509 (42 U.S.C.
 4 s.1396a);

5 (10) Is a pregnant woman who is determined by a provider to be
 6 presumptively eligible for medical assistance based on criteria
 7 established by the commissioner, pursuant to section 9407 of
 8 Pub.L.99-509 (42 U.S.C. s.1396a(a));

9 (11) Is an individual 65 years of age and older, or an individual
 10 who is blind or disabled pursuant to section 301 of Pub.L.92-603 (42
 11 U.S.C. s.1382c), whose income does not exceed 100% of the poverty
 12 level, adjusted for family size, and whose resources do not exceed
 13 100% of the resource standard used to determine medically needy
 14 eligibility pursuant to paragraph (8) of this subsection;

15 (12) Is a qualified disabled and working individual pursuant to
 16 section 6408 of Pub.L.101-239 (42 U.S.C. s.1396d) whose income
 17 does not exceed 200% of the poverty level and whose resources do
 18 not exceed 200% of the resource standard used to determine eligibility
 19 under the Supplemental Security Income Program, P.L.1973, c.256
 20 (C.44:7-85 et seq.);

21 (13) Is a pregnant woman or is a child who is under one year of
 22 age and is a member of a family whose income does not exceed 185%
 23 of the poverty level and who meets the federal Medicaid eligibility
 24 requirements set forth in section 9401 of Pub.L.99-509 (42 U.S.C.
 25 s.1396a), except that a pregnant woman who is determined to be a
 26 qualified applicant shall, notwithstanding any change in the income of
 27 the family of which she is a member, continue to be deemed a qualified
 28 applicant until the end of the 60-day period beginning on the last day
 29 of her pregnancy;

30 (14) (Deleted by amendment, P.L.1997, c.272).

31 (15) (a) Is a specified low-income Medicare beneficiary pursuant to
 32 42 U.S.C. s.1396a(a)10(E)iii whose resources beginning January 1,
 33 1993 do not exceed 200% of the resource standard used to determine
 34 eligibility under the Supplemental Security Income program, P.L.1973,
 35 c.256 (C.44:7-85 et seq.) and whose income beginning January 1,
 36 1993 does not exceed 110% of the poverty level, and beginning
 37 January 1, 1995 does not exceed 120% of the poverty level.

38 (b) An individual who has, within 36 months, or within 60 months
 39 in the case of funds transferred into a trust, of applying to be a
 40 qualified applicant for Medicaid services in a nursing facility or a
 41 medical institution, or for home or community-based services under
 42 section 1915(c) of the federal Social Security Act (42 U.S.C.
 43 s.1396n(c)), disposed of resources or income for less than fair market
 44 value shall be ineligible for assistance for nursing facility services, an
 45 equivalent level of services in a medical institution, or home or
 46 community-based services under section 1915(c) of the federal Social

1 Security Act (42 U.S.C. s.1396n(c)). The period of the ineligibility
2 shall be the number of months resulting from dividing the
3 uncompensated value of the transferred resources or income by the
4 average monthly private payment rate for nursing facility services in
5 the State as determined annually by the commissioner. In the case of
6 multiple resource or income transfers, the resulting penalty periods
7 shall be imposed sequentially. Application of this requirement shall be
8 governed by 42 U.S.C. s.1396p(c). In accordance with federal law,
9 this provision is effective for all transfers of resources or income made
10 on or after August 11, 1993. Notwithstanding the provisions of this
11 subsection to the contrary, the State eligibility requirements
12 concerning resource or income transfers shall not be more restrictive
13 than those enacted pursuant to 42 U.S.C. s.1396p(c).

14 (c) An individual seeking nursing facility services or home or
15 community-based services and who has a community spouse shall be
16 required to expend those resources which are not protected for the
17 needs of the community spouse in accordance with section 1924(c) of
18 the federal Social Security Act (42 U.S.C. s.1396r-5(c)) on the costs
19 of long-term care, burial arrangements, and any other expense deemed
20 appropriate and authorized by the commissioner. An individual shall
21 be ineligible for Medicaid services in a nursing facility or for home or
22 community-based services under section 1915(c) of the federal Social
23 Security Act (42 U.S.C. s.1396n(c)) if the individual expends funds in
24 violation of this subparagraph. The period of ineligibility shall be the
25 number of months resulting from dividing the uncompensated value of
26 transferred resources and income by the average monthly private
27 payment rate for nursing facility services in the State as determined by
28 the commissioner. The period of ineligibility shall begin with the
29 month that the individual would otherwise be eligible for Medicaid
30 coverage for nursing facility services or home or community-based
31 services.

32 This subparagraph shall be operative only if all necessary approvals
33 are received from the federal government including, but not limited to,
34 approval of necessary State plan amendments and approval of any
35 waivers;

36 (16) Subject to federal approval under Title XIX of the federal
37 Social Security Act, is a dependent child, parent or specified caretaker
38 relative of a child who is a qualified applicant, who would be eligible,
39 without regard to resources, for the [aid to] temporary assistance for
40 needy families [with dependent children] program under the State
41 Plan for Title IV-A of the federal Social Security Act as of July 16,
42 1996, except for the income eligibility requirements of that program,
43 and whose family earned income does not exceed 133% of the poverty
44 level plus such earned income disregards as shall be determined
45 according to a methodology to be established by regulation of the
46 commissioner;

1 (17) Is an individual from 18 through 20 years of age who is not
 2 a dependent child and would be eligible for medical assistance
 3 pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), without regard to
 4 income or resources, who, on the individual's 18th birthday was in
 5 foster care under the care and custody of the Division of [Youth and
 6 Family Services] Child Protection and Permanency or an alternate
 7 entity within the department designated by the commissioner and
 8 whose maintenance was being paid in whole or in part from public
 9 funds;

10 (18) Is a person between the ages of 16 and 65 who is permanently
 11 disabled and working, and:

12 (a) whose income is at or below 250% of the poverty level, plus
 13 other established disregards;

14 (b) who pays the premium contribution and other cost sharing as
 15 established by the commissioner, subject to the limits and conditions
 16 of federal law; and

17 (c) whose assets, resources and unearned income do not exceed
 18 limitations as established by the commissioner; or

19 (19) Is an uninsured individual under 65 years of age who:

20 (a) has been screened for breast or cervical cancer under the
 21 federal Centers for Disease Control and Prevention breast and cervical
 22 cancer early detection program;

23 (b) requires treatment for breast or cervical cancer based upon
 24 criteria established by the commissioner;

25 (c) has an income that does not exceed the income standard
 26 established by the commissioner pursuant to federal guidelines;

27 (d) meets all other Medicaid eligibility requirements; and

28 (e) in accordance with Pub.L.106-354, is determined by a qualified
 29 entity to be presumptively eligible for medical assistance pursuant to
 30 42 U.S.C. s.1396a(aa), based upon criteria established by the
 31 commissioner pursuant to section 1920B of the federal Social Security
 32 Act (42 U.S.C. s.1396r-1b).

33 j. "Recipient" means any qualified applicant receiving benefits
 34 under this act.

35 k. "Resident" means a person who is living in the State voluntarily
 36 with the intention of making his home here and not for a temporary
 37 purpose. Temporary absences from the State, with subsequent returns
 38 to the State or intent to return when the purposes of the absences have
 39 been accomplished, do not interrupt continuity of residence.

40 l. "State Medicaid Commission" means the Governor, the
 41 Commissioner of Human Services, the President of the Senate and the
 42 Speaker of the General Assembly, hereby constituted a commission to
 43 approve and direct the means and method for the payment of claims
 44 pursuant to this act.

45 m. "Third party" means any person, institution, corporation,
 46 insurance company, group health plan as defined in section 607(1) of

1 the federal "Employee Retirement and Income Security Act of 1974,"
2 29 U.S.C. s.1167(1), service benefit plan, health maintenance
3 organization, or other prepaid health plan, or public, private or
4 governmental entity who is or may be liable in contract, tort, or
5 otherwise by law or equity to pay all or part of the medical cost of
6 injury, disease or disability of an applicant for or recipient of medical
7 assistance payable under this act.

8 n. "Governmental peer grouping system" means a separate class of
9 skilled nursing and intermediate care facilities administered by the
10 State or county governments, established for the purpose of screening
11 their reported costs and setting reimbursement rates under the
12 Medicaid program that are reasonable and adequate to meet the costs
13 that must be incurred by efficiently and economically operated State
14 or county skilled nursing and intermediate care facilities.

15 o. "Comprehensive maternity or pediatric care provider" means any
16 person or public or private health care facility that is a provider and
17 that is approved by the commissioner to provide comprehensive
18 maternity care or comprehensive pediatric care as defined in
19 subsection b. (18) and (19) of section 6 of P.L.1968, c.413
20 (C.30:4D-6).

21 p. "Poverty level" means the official poverty level based on family
22 size established and adjusted under Section 673(2) of Subtitle B, the
23 "Community Services Block Grant Act," of Pub.L.97-35 (42 U.S.C.
24 s.9902(2)).

25 q. "Eligible alien" means one of the following:

26 (1) an alien present in the United States prior to August 22, 1996,
27 who is:

28 (a) a lawful permanent resident;

29 (b) a refugee pursuant to section 207 of the federal "Immigration
30 and Nationality Act" (8 U.S.C. s.1157);

31 (c) an asylee pursuant to section 208 of the federal "Immigration
32 and Nationality Act" (8 U.S.C. s.1158);

33 (d) an alien who has had deportation withheld pursuant to section
34 243(h) of the federal "Immigration and Nationality Act" (8 U.S.C.
35 s.1253 (h));

36 (e) an alien who has been granted parole for less than one year by
37 the federal Immigration and Naturalization Service pursuant to section
38 212(d)(5) of the federal "Immigration and Nationality Act" (8 U.S.C.
39 s.1182(d)(5));

40 (f) an alien granted conditional entry pursuant to section 203(a)(7)
41 of the federal "Immigration and Nationality Act" (8 U.S.C.
42 s.1153(a)(7)) in effect prior to April 1, 1980; or

43 (g) an alien who is honorably discharged from or on active duty in
44 the United States armed forces and the alien's spouse and unmarried
45 dependent child.

46 (2) An alien who entered the United States on or after August 22,

1 1996, who is:

2 (a) an alien as described in paragraph (1)(b), (c), (d) or (g) of this
3 subsection; or

4 (b) an alien as described in paragraph (1)(a), (e) or (f) of this
5 subsection who entered the United States at least five years ago.

6 (3) A legal alien who is a victim of domestic violence in
7 accordance with criteria specified for eligibility for public benefits as
8 provided in Title V of the federal "Illegal Immigration Reform and
9 Immigrant Responsibility Act of 1996" (8 U.S.C. s.1641).
10 (cf: P.L.2001, c.186, s.1)

11

12 154. Section 1 of P.L.1997, c.254 (C.30:5B-6.1) is amended to
13 read as follows:

14 1. As used in this act:

15 "Department" means the Department of Human Services.

16 "Division" means the Division of [Youth and Family Services]
17 Child Protection and Permanency in the Department of Human
18 Services.

19 "Staff member" means any owner, sponsor, director or person
20 employed by or working at a child care center on a regularly scheduled
21 basis during the center's operating hours, including full-time, part-time,
22 voluntary, contract, consulting, and substitute staff, whether
23 compensated or not.

24 "Child care center" or "Center" means any facility which is
25 maintained for the care, development or supervision of six or more
26 children under 13 years of age who attend the facility for less than 24
27 hours a day, and which is subject to State licensure or life-safety
28 approval, pursuant to the provisions of the "Child Care Licensing
29 Act," P.L.1983, c.492 (C.30:5B-1 to 30:5B-15) .
30 (cf: P.L.1997, c.254, s.1)

31

32 155. Section 2 of P.L.1997, c.254 (C.30:5B-6.2) is amended to
33 read as follows:

34 2. a. As a condition of securing a new or renewal license or
35 approval, the [division] department shall conduct a check of the
36 division's child abuse records to determine if an incident of child abuse
37 or neglect has been substantiated pursuant to section 4 of P.L.1971,
38 c.437 (C.9:6-8.11), against any staff member of a child care center.

39 b. The [division] department shall not issue a regular license or
40 approval to a center until the [division] department determines that no
41 staff member employed by or working at the center has a record of
42 substantiated child abuse or neglect.

43 c. The [division] department shall deny, revoke or refuse to renew
44 the center's license or approval, as appropriate, if the [division]
45 department determines that an incident of child abuse or neglect by an

1 owner or sponsor of a center has been substantiated.

2 (cf: P.L.1997, c.254, s.2)

3
4 156. Section 3 of P.L.1997, c.254 (C.30:5B-6.3) is amended to
5 read as follows:

6 3. a. The staff member shall provide prior written consent for the
7 **[division] department** to conduct a check of **[its] the division's** child
8 abuse records.

9 b. If the owner or sponsor of the center refuses to consent to, or
10 cooperate in, the securing of a **[division]** child abuse record
11 information check, the **[division] department** shall suspend, deny,
12 revoke or refuse to renew the center's license or approval, as
13 appropriate.

14 c. If a staff member of a center, other than the owner or sponsor,
15 refuses to consent to, or cooperate in, the securing of a **[division]**
16 child abuse record information check, the person shall be immediately
17 terminated from employment at the center.

18 (cf: P.L.1997, c.254, s.3)

19
20 157. Section 4 of P.L.1997, c.254 (C.30:5B-6.4) is amended to
21 read as follows:

22 4. a. Within two weeks after a new staff member's employment,
23 the owner or sponsor of a center shall notify the **[division] department**
24 to conduct a check of **[its] the division's** child abuse records to
25 determine if an incident of child abuse or neglect has been
26 substantiated against the staff member.

27 b. Until the results of the child abuse record information check on
28 a new staff member have been received by the center owner or
29 sponsor, the staff member shall not be left alone at the center caring
30 for children.

31 c. If the **[division] department** determines that an incident of child
32 abuse or neglect by the staff member has been substantiated, the
33 **[division] department** shall advise the center owner or sponsor of the
34 results of the child abuse record information check and the center shall
35 immediately terminate the person from employment at the center.

36 (cf: P.L.1997, c.254, s.4)

37
38 158. Section 5 of P.L.1997, c.254 (C.30:5B-6.5) is amended to
39 read as follows:

40 5. The **[division] department** shall complete the child abuse record
41 information check within 45 days after receiving the request for the
42 check.

43 (cf: P.L.1997, c.254, s.5)

44
45 159. Section 6 of P.L.1997, c.254 (C.30:5B-6.6) is amended to

1 read as follows:

2 6. The [division] department shall consider, for the purposes of
3 this act, any incidents of child abuse or neglect that were substantiated
4 on or after June 29, 1995, to ensure that perpetrators have had an
5 opportunity to appeal a substantiated finding of abuse or neglect;
6 except that the [division] department may consider substantiated
7 incidents prior to that date if the [division] department, in its
8 judgment, determines that the individual poses a risk of harm to
9 children in a child care center. In cases involving incidents
10 substantiated prior to June 29, 1995, the [division] department shall
11 offer the individual an opportunity for a hearing to contest its action
12 restricting the individual from employment in a child care center.
13 (cf: P.L.1997, c.254, s.6)

14

15 160. Section 9 of P.L.1997, c.254 (C.30:5B-6.9) is amended to
16 read as follows:

17 9. a. Notwithstanding the provisions of section 2 of P.L.1985,
18 c.69 (C.53:1-20.6), a staff member subject to this act shall be charged
19 a fee established by the department to help defray the cost to the State
20 of the [division's] child abuse record information check. The center
21 may use its own discretion in offering to pay or reimburse the staff
22 member for the cost of the child abuse record information check.

23 b. The money collected by the [division] department for child
24 abuse record information checks shall be deposited in a special fund
25 and shall constitute dedicated revenues to be used as necessary by the
26 [division] department to effectuate the purpose of this act.
27 (cf: P.L.1997, c.254, s.9)

28

29 161. Section 1 of P.L.2000, c.77 (C.30:5B-6.10) is amended to
30 read as follows:

31 1. As used in sections 1 through 7 and 9 through 12 of P.L.2000,
32 c.77 (C.30:5B-6.10 et seq.):

33 "Child care center" or "center" means any facility which is
34 maintained for the care, development or supervision of six or more
35 children under 13 years of age who attend the facility for less than 24
36 hours a day, and which is subject to State licensure or life-safety
37 approval pursuant to P.L.1983, c.492 (C.30:5B-1 et seq.).

38 "Department" means the Department of Human Services.

39 ["Division" means the Division of Youth and Family Services in the
40 Department of Human Services.]

41 "Staff member" means a person 18 years of age or older who owns,
42 sponsors, or directs a child care center, or who is employed by or
43 works in a child care center on a regularly scheduled basis during the
44 center's operating hours, including full-time, part-time, voluntary,
45 contract, consulting, and substitute staff, whether compensated or not.

1 (cf: P.L.2000, c.77, s.1)

1 162. Section 3 of P.L.2000, c.77 (C. 30:5B-6.12) is amended to
2 read as follows:

3 3. a. If the owner or sponsor of the child care center refuses to
4 consent to, or cooperate in, the securing of a criminal history record
5 background check, the [division] department shall suspend, deny,
6 revoke or refuse to renew the center's license or life-safety approval,
7 as appropriate.

8 b. If a staff member of a child care center, other than the owner or
9 sponsor, refuses to consent to, or cooperate in, the securing of a
10 criminal history record background check, the person shall be
11 immediately terminated from employment at the center.

12 (cf: P.L.2000, c.77, s.3)

13

14 163. Section 4 of P.L.2000, c.77 (C.30:5B-6.13) is amended to
15 read as follows:

16 4. a. In the case of a child care center established after the effective
17 date of P.L.2000, c.77 (C.30:5B-6.10 et al.), the owner or sponsor of
18 the center, prior to the center's opening, shall ensure that a request for
19 a criminal history record background check on each staff member is
20 sent to the Department of Human Services for processing by the
21 Division of State Police in the Department of Law and Public Safety
22 and the Federal Bureau of Investigation.

23 A staff member shall not be left alone as the only adult caring for
24 a child at the center until the criminal history record background has
25 been reviewed by the [division] department pursuant to P.L.2000,
26 c.77 (C.30:5B-6.10 et al.).

27 b. In the case of a child care center licensed or granted life-safety
28 approval prior to the effective date of P.L.2000, c.77 (C.30:5B-6.10
29 et al.), the owner or sponsor of the center, at the time of the center's
30 first renewal of license or life-safety approval next following that
31 effective date, shall ensure that a request for a criminal history record
32 background check for each staff member is sent to the department for
33 processing by the Division of State Police and the Federal Bureau of
34 Investigation.

35 c. Within two weeks after a new staff member begins employment
36 at a child care center, the owner or sponsor of the center shall ensure
37 that a request for a criminal history record background check is sent
38 to the department for processing by the Division of State Police and
39 the Federal Bureau of Investigation.

40 A new staff member shall not be left alone as the only adult caring
41 for a child at the center until the criminal history record background
42 has been reviewed by the [division] department pursuant to P.L.2000,
43 c.77 (C.30:5B-6.10 et al.).

44 d. In the case of child care centers under contract to implement
45 early childhood education programs in the Abbott districts as defined
46 in P.L.1996, c.138 (C.18A:7F-3) and in other school districts, the

1 [division] department shall ensure that a criminal history record
2 background check is conducted on all current staff members as soon
3 as practicable, but no later than six months after the effective date of
4 P.L.2000, c.77 (C.30:5B-6.10 et al.).
5 (cf: P.L.2000, c.77, s.4)

6
7 164. Section 6 of P.L.2000, c.77 (C.30:5B-6.15) is amended to
8 read as follows:

9 6. a. If a staff member of a child care center is convicted of a crime
10 specified in section 5 of P.L.2000, c.77 (C.30:5B-6.14) after the
11 effective date of P.L.2000, c.77 (C.30:5B-6.10 et al.), the staff
12 member shall be terminated from employment at, or ownership or
13 sponsorship of, a child care center.

14 b. For crimes and offenses other than those cited in section 5 of
15 P.L.2000, c.77 (C.30:5B-6.14), an applicant or staff member may be
16 eligible for employment at, or ownership or sponsorship of, a child
17 care center if the [division] department determines that the person has
18 affirmatively demonstrated to the [division] department clear and
19 convincing evidence of the person's rehabilitation pursuant to
20 subsection c. of this section.

21 c. In determining whether a person has affirmatively demonstrated
22 rehabilitation, the following factors shall be considered:

23 (1) the nature and responsibility of the position at the child care
24 center which the convicted person would hold, has held or currently
25 holds, as the case may be;

26 (2) the nature and seriousness of the offense;

27 (3) the circumstances under which the offense occurred;

28 (4) the date of the offense;

29 (5) the age of the person when the offense was committed;

30 (6) whether the offense was an isolated or repeated incident;

31 (7) any social conditions which may have contributed to the
32 offense; and

33 (8) any evidence of rehabilitation, including good conduct in prison
34 or in the community, counseling or psychiatric treatment received,
35 acquisition of additional academic or vocational schooling, successful
36 participation in correctional work-release programs, or the
37 recommendation of those who have had the person under their
38 supervision.

39 d. The [division] department shall make the final determination
40 regarding the employment of an applicant or staff member with a
41 criminal conviction.

42 (cf: P.L.2000, c.77, s.6)

43
44 165. Section 7 of P.L.2000, c.77 (C.30:5B-6.16) is amended to
45 read as follows:

46 7. If a child care center owner or sponsor has knowledge that a

1 staff member has criminal charges pending against the staff member,
2 the owner or sponsor shall promptly notify the **[division]** department
3 to determine whether any action concerning the staff member is
4 necessary in order to ensure the safety of the children who attend the
5 center.

6 (cf: P.L.2000, c.77, s.7)

7
8 166. Section 9 of P.L.2000, c.77 (C.30:5B-6.17) is amended to
9 read as follows:

10 9. a. A child care center that has received an employment
11 application from an individual or currently employs a staff member
12 shall be immune from liability for acting upon or disclosing information
13 about the disqualification or termination to another center seeking to
14 employ that person if the center has:

15 (1) received notice from the **[division]** department that the
16 applicant or staff member, as applicable, has been determined by the
17 **[division]** department to be disqualified from employment in a child
18 care center pursuant to section 5 or 6 of P.L.2000, c.77 (C.30:5B-6.14
19 or C.30:5B-6.15); or

20 (2) terminated the employment of a staff member because the
21 person was disqualified from employment at the center on the basis of
22 a conviction of a crime pursuant to section 5 or 6 of P.L.2000, c.77
23 (C.30:5B-6.14 or C.30:5B-6.15) after commencing employment at the
24 center.

25 b. A child care center which acts upon or discloses information
26 pursuant to subsection a. of this section shall be presumed to be acting
27 in good faith unless it is shown by clear and convincing evidence that
28 the center acted with actual malice toward the person who is the
29 subject of the information.

30 (cf: P.L.2000, c.77, s.9)

31
32 167. Section 14 of P.L.1983, c.492 (C.30:5B-14) is amended to
33 read as follows:

34 14. a. The Director of the Division of **[Youth and Family Services]**
35 Family Development in the Department of Human Services and the
36 Director of the Division on Women in the Department of Community
37 Affairs shall establish a Child Care Advisory Council which shall
38 consist of at least 15 individuals who have experience, training or
39 other interests in child care issues. To the extent possible, the
40 directors shall designate members of existing councils or task forces
41 heretofore established on child care in New Jersey as the advisory
42 council.

43 b. The advisory council shall:

44 (1) Review rules and regulations or proposed revisions to existing
45 rules and regulations governing the licensing of child care centers;

46 (2) Review proposed statutory amendments governing the licensing

1 of child care centers and make recommendations to the commissioner;
2 (3) Advise the commissioner on the administration of the licensing
3 responsibilities under this act;
4 (4) Advise the Commissioners of Human Services and Community
5 Affairs and other appropriate units of State government on the needs,
6 priorities, programs, and policies relating to child care throughout the
7 State;
8 (5) Study and recommend alternative resources for child care; and
9 (6) Facilitate employer supported child care through information
10 and technical assistance.
11 c. The advisory council may accept from any governmental
12 department or agency, public or private body or any other source
13 grants or contributions to be used in carrying out its responsibilities
14 under this act.
15 (cf: P.L.1992, c.95, s.4)
16
17 168. Section 3 of P.L.1987, c.27 (C.30:5B-18) is amended to read
18 as follows:
19 3. As used in this act:
20 a. "Certificate of registration" means a certificate issued by the
21 ~~division~~ department to a family day care provider, acknowledging
22 that the provider is registered pursuant to the provisions of this act.
23 b. ~~["Division" means the Division of Youth and Family Services in~~
24 ~~the State Department of Human Services]~~ (Deleted by amendment,
25 P.L. , c. (pending before the Legislature as this bill)).
26 c. "Family day care home" means a private residence in which child
27 care services are provided for a fee to no less than three and no more
28 than five children at any one time for no less than 15 hours per week;
29 except that the ~~division~~ department shall not exclude a family day
30 care home with less than three children from voluntary registration.
31 A child being cared for under the following circumstances is not
32 included in the total number of children receiving child care services:
33 (1) The child being cared for is legally related to the provider; or
34 (2) Care is being provided as part of an employment agreement
35 between the family day care provider and an assistant or substitute
36 provider where no payment for the care is being provided.
37 d. "Family day care provider" means a person at least 18 years of
38 age who is responsible for the operation and management of a family
39 day care home.
40 e. "Family day care sponsoring organization" means an agency or
41 organization which contracts with the ~~division~~ department to assist
42 in the registration of family day care providers in a specific
43 geographical area.
44 f. "Monitor" means to visit a family day care provider to review
45 the provider's compliance with the standards established pursuant to
46 this act.

1 g. "Department" means the Department of Human Services.

2 (cf: P.L.1992, c.13, s.2)

3
4 169. Section 4 of P.L.1987, c.27 (C.30:5B-19) is amended to read
5 as follows:

6 4. a. The [division] department has the responsibility and authority
7 to contract with family day care sponsoring organizations for the
8 voluntary registration of family day care providers and shall adopt
9 regulations for the operation and maintenance of family day care
10 sponsoring organizations.

11 b. The [division] department shall contract in writing with an
12 agency or organization authorizing the agency or organization to
13 operate as a family day care sponsoring organization to assist in the
14 voluntary registration of family day care providers in a specific
15 geographical area and to perform other functions with regard to family
16 day care providers in accordance with the provisions of this act and
17 the regulations adopted thereunder for which purposes the
18 organization shall receive funds from the [division] department based
19 upon a fee for the service. The [division] department shall contract
20 with a family day care sponsoring organization for a period of one
21 year.

22 c. The [division] department shall contract with one family day
23 care sponsoring organization to serve each county; however, the
24 [division] department may, as it deems appropriate, contract with
25 additional family day care sponsoring organizations in a county, except
26 that the [division] department shall make all necessary arrangements
27 to avoid duplication of effort and to promote a cooperative working
28 relationship among the sponsoring organizations. Within one year
29 following the effective date of this act there shall be a family day care
30 sponsoring organization serving each county in this State.

31 (cf: P.L.1987, c.27, s.4)

32
33 170. Section 5 of P.L.1987, c.27 (C.30:5B-20) is amended to read
34 as follows:

35 5. a. A family day care sponsoring organization with which the
36 [division] department contracts is authorized to register family day
37 care providers within its designated geographical area and is
38 responsible for providing administrative services, including, but not
39 limited to, training, technical assistance, and consultation to family day
40 care providers and inspection, supervision, monitoring and evaluation
41 of family day care providers.

42 b. The family day care sponsoring organization shall maintain
43 permanent records for each family day care provider it registers. The
44 sponsoring organization shall also maintain its own staff and
45 administrative and financial records. All records are open to

1 inspection by an authorized representative of the [division]
2 department for the purpose of determining compliance with this act.

3 c. The family day care sponsoring organization shall provide a
4 program of outreach and public relations to inform providers of the
5 provisions of this act.

6 (cf: P.L.1987, c.27, s.5)

7

8 171. Section 8 of P.L.1987, c.27 (C.30:5B-23) is amended to read
9 as follows:

10 8. a. The [division] department shall also establish standards for
11 the issuance, renewal, denial, suspension and revocation of a
12 certificate of registration which the family day care sponsoring
13 organization shall apply. In developing the standards, the [division]
14 department shall consult with the Advisory Council on Child Care
15 established pursuant to the "Child Care Center Licensing Act,"
16 P.L.1983, c.492 (C.30:5B-1 et seq.).

17 b. A person operating as a registered family day care provider who
18 violates the provisions of this act by failing to adhere to the standards
19 established by the [division] department pursuant to this act shall be
20 notified in writing of the violation of the provisions of this act and
21 provided with an opportunity to comply with those provisions. For a
22 subsequent violation, the person's certificate of registration may be
23 revoked, or the person may be fined in an amount determined by the
24 Commissioner of Human Services, or both. The receipt of excessive
25 complaints by the municipal police or other local or State authorities
26 concerning neglect of children, excessive noise, or property damage
27 resulting from the operation of a family day care home may be
28 considered by the [division] department when renewing, suspending
29 or revoking a certificate of registration.

30 c. The [division] department, before denying, suspending, revoking
31 or refusing to renew a certificate of registration, shall give notice
32 thereof to the provider personally, or by certified or registered mail to
33 the last known address of the family day care home with return receipt
34 requested. The notice shall afford the provider the opportunity to be
35 heard. The hearing shall take place within 60 days from the receipt of
36 the notice and shall be conducted in accordance with the
37 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
38 seq.).

39 d. If the certificate of registration is suspended or revoked or not
40 renewed, the provider shall so notify the parent of each child attending
41 the family day care home in writing within 10 days of the action.

42 e. (Deleted by amendment, P.L.1993, c.350).

43 (cf: P.L.1993, c.350, s.6)

44

45 172. Section 2 of P.L.1993, c.350 (C.30:5B-25.2) is amended to
46 read as follows:

1 2. As used in sections 1 through 4 of P.L.1993, c.350
2 (C.30:5B-25.1 through C.30:5B-25.4):

3 "Central registry" means the central registry of the Division of
4 **[Youth and Family Services]** Child Protection and Permanency in the
5 Department of Human Services established pursuant to section 4 of
6 P.L.1971, c.437 (C.9:6-8.11).

7 "Provider" means a family day care provider as defined by section
8 3 of P.L.1987, c.27 (C.30:5B-18) and includes, but is not limited to,
9 a family day care provider's assistant and a substitute family day care
10 provider.

11 "Family day care sponsoring organization" means an agency or
12 organization which contracts with the **[Division of Youth and Family]**
13 Department of Human Services to assist in the registration of family
14 day care providers in a specific geographic area pursuant to P.L.1987,
15 c.27 (C.30:5B-16 et seq.).

16 "Household member" means an individual over 14 years of age who
17 resides in a family day care provider's home.

18 (cf: P.L.1993, c.350, s.2)

19
20 173. Section 3 of P.L.1993, c.350 (C.30:5B-25.3) is amended to
21 read as follows:

22 3. a. The **[Division of Youth and Family Services in the]**
23 Department of Human Services shall conduct a search of **[its]** the
24 central registry to determine if a report of child abuse or neglect has
25 been filed, pursuant to section 3 of P.L.1971, c.437 (C.9:6-8.10),
26 involving a person registering as a prospective provider or a household
27 member of the prospective provider or as a current provider or
28 household member of the current provider.

29 b. The **[division]** department shall conduct the search only upon
30 receipt of the prospective or current provider or household member's
31 written consent to the search. If the person refuses to provide his
32 consent, the family day care sponsoring organization shall deny the
33 prospective or current provider's application for a certificate or
34 renewal of registration.

35 c. The **[division]** department shall advise the sponsoring
36 organization of the results of the central registry search within a time
37 period to be determined by the **[Department of Human Services]**
38 department.

39 d. The **[division]** department shall not issue a certificate or
40 renewal of registration to a prospective or current provider unless the
41 **[division]** department has first determined that no substantiated
42 charge of child abuse or neglect against the prospective or current
43 provider or household member is found during the central registry
44 search.

45 (cf: P.L.1993, c.350, s.3)

1 174. Section 4 of P.L.1979, c.337 (C.30:14-4) is amended to read
2 as follows:

3 4. a. There is created an Advisory Council on Domestic Violence
4 which shall consist of 19 members: the Director of the Division on
5 Women in the Department of Community Affairs, the Director of the
6 Division of [Youth and Family Services] Child Protection and
7 Permanency and the Director of the Division of [Public Welfare]
8 Family Development in the Department of Human Services, the
9 Director of the Administrative Office of the Courts, the Commissioner
10 of the Department of Education, the Attorney General, or their
11 designees, and one representative of Legal Services of New Jersey,
12 one former domestic violence shelter resident, one representative of
13 the Police Chiefs Association, one representative of the County
14 Prosecutors Association, one representative of the New Jersey State
15 Nurses Association, one representative of the Mental Health
16 Association in New Jersey, one representative of the New Jersey
17 Crime Prevention Officers Association, one representative of the New
18 Jersey Hospital Association, one representative of the Violent Crimes
19 Compensation Board, and four representatives of the New Jersey
20 Coalition for Battered Women to be appointed by the Governor.

21 b. The advisory council shall:

22 (1) Monitor the effectiveness of the laws concerning domestic
23 violence and make recommendations for their improvement;

24 (2) Review proposed legislation governing domestic violence and
25 make recommendations to the Governor and the Legislature;

26 (3) Study the needs, priorities, programs, and policies relating to
27 domestic violence throughout the State; and

28 (4) Ensure that all service providers and citizens are aware of the
29 needs of and services available to victims of domestic violence and
30 make recommendations for community education and training
31 programs.

32 c. The advisory council shall periodically advise the Director of
33 the Division of [Youth and Family Services] Child Protection and
34 Permanency in the Department of Human Services and the Director of
35 the Division on Women in the Department of Community Affairs on
36 its activities, findings and recommendations.

37 (cf: P.L.1987, c.103, s.1)
38

39 175. Section 3 of P.L.2001, c.195 (C.30:14-15) is amended to read
40 as follows:

41 3. a. There is hereby established the "Domestic Violence Victims'
42 Fund," a dedicated fund within the General Fund and administered by
43 the [Division of Youth and Family Services in the] Department of
44 Human Services. The fund shall be the depository of moneys realized
45 from the civil penalty imposed pursuant to section 1 of P.L.2001,
46 c.195 (C.2C:25-29.1) and any other moneys made available for the

1 purposes of the fund.

2 b. All moneys deposited in the "Domestic Violence Victims' Fund"
3 shall be used for direct services to victims of domestic violence,
4 including, but not limited to, shelter services, legal advocacy services
5 and legal assistance services, and for related administrative costs of the
6 **[Division of Youth and Family Services]** department.
7 (cf: P.L.2001, c.195, s.3)

8

9 176. Section 53 of P.L.1975, c.291 (C.40:55D-66) is amended to
10 read as follows:

11 53. a. For purposes of this act, model homes or sales offices
12 within a subdivision and only during the period necessary for the sale
13 of new homes within such subdivision shall not be considered a
14 business use.

15 b. No zoning ordinance governing the use of land by or for schools
16 shall, by any of its provisions or by any regulation adopted in
17 accordance therewith, discriminate between public and private
18 nonprofit day schools of elementary or high school grade accredited
19 by the State Department of Education.

20 c. No zoning ordinance shall, by any of its provisions or by any
21 regulation adopted in accordance therewith, discriminate between
22 children who are members of families by reason of their relationship by
23 blood, marriage or adoption, and foster children placed with such
24 families in a dwelling by the Division of **[Youth and Family Services]**
25 Child Protection and Permanency in the Department of **[Institutions**
26 **and Agencies]** Human Services or a duly incorporated child care
27 agency and children placed pursuant to law in single family dwellings
28 known as group homes. As used in this section, the term "group
29 home" means and includes any single family dwelling used in the
30 placement of children pursuant to law recognized as a group home by
31 the Department of **[Institutions and Agencies]** Human Services in
32 accordance with rules and regulations adopted by the Commissioner
33 of **[Institutions and Agencies]** Human Services provided, however,
34 that no group home shall contain more than 12 children.
35 (cf: P.L.1975, c.291, s.53)

36

37 177. R.S.43:21-5 is amended to read as follows:

38 43:21-5. An individual shall be disqualified for benefits:

39 (a) For the week in which the individual has left work voluntarily
40 without good cause attributable to such work, and for each week
41 thereafter until the individual becomes reemployed and works four
42 weeks in employment, which may include employment for the federal
43 government, and has earned in employment at least six times the
44 individual's weekly benefit rate, as determined in each case. This
45 subsection shall apply to any individual seeking unemployment benefits
46 on the basis of employment in the production and harvesting of

1 agricultural crops, including any individual who was employed in the
2 production and harvesting of agricultural crops on a contract basis and
3 who has refused an offer of continuing work with that employer
4 following the completion of the minimum period of work required to
5 fulfill the contract.

6 (b) For the week in which the individual has been suspended or
7 discharged for misconduct connected with the work, and for the five
8 weeks which immediately follow that week (in addition to the waiting
9 period), as determined in each case. In the event the discharge should
10 be rescinded by the employer voluntarily or as a result of mediation or
11 arbitration, this subsection (b) shall not apply, provided, however, an
12 individual who is restored to employment with back pay shall return
13 any benefits received under this chapter for any week of
14 unemployment for which the individual is subsequently compensated
15 by the employer.

16 If the discharge was for gross misconduct connected with the work
17 because of the commission of an act punishable as a crime of the first,
18 second, third or fourth degree under the "New Jersey Code of Criminal
19 Justice," N.J.S.2C:1-1 et seq., the individual shall be disqualified in
20 accordance with the disqualification prescribed in subsection (a) of this
21 section and no benefit rights shall accrue to any individual based upon
22 wages from that employer for services rendered prior to the day upon
23 which the individual was discharged.

24 The director shall insure that any appeal of a determination holding
25 the individual disqualified for gross misconduct in connection with the
26 work shall be expeditiously processed by the appeal tribunal.

27 (c) If it is found that the individual has failed, without good cause,
28 either to apply for available, suitable work when so directed by the
29 employment office or the director or to accept suitable work when it
30 is offered, or to return to the individual's customary self-employment
31 (if any) when so directed by the director. The disqualification shall
32 continue for the week in which the failure occurred and for the three
33 weeks which immediately follow that week (in addition to the waiting
34 period), as determined:

35 (1) In determining whether or not any work is suitable for an
36 individual, consideration shall be given to the degree of risk involved
37 to health, safety, and morals, the individual's physical fitness and prior
38 training, experience and prior earnings, the individual's length of
39 unemployment and prospects for securing local work in the individual's
40 customary occupation, and the distance of the available work from the
41 individual's residence. In the case of work in the production and
42 harvesting of agricultural crops, the work shall be deemed to be
43 suitable without regard to the distance of the available work from the
44 individual's residence if all costs of transportation are provided to the
45 individual and the terms and conditions of hire are as favorable or
46 more favorable to the individual as the terms and conditions of the

1 individual's base year employment.

2 (2) Notwithstanding any other provisions of this chapter, no work
3 shall be deemed suitable and benefits shall not be denied under this
4 chapter to any otherwise eligible individual for refusing to accept new
5 work under any of the following conditions: (a) if the position offered
6 is vacant due directly to a strike, lockout, or other labor dispute; (b)
7 if the remuneration, hours, or other conditions of the work offered are
8 substantially less favorable to the individual than those prevailing for
9 similar work in the locality; (c) if as a condition of being employed the
10 individual would be required to join a company union or to resign from
11 or refrain from joining any bona fide labor organization.

12 (d) If it is found that this unemployment is due to a stoppage of
13 work which exists because of a labor dispute at the factory,
14 establishment or other premises at which the individual is or was last
15 employed. No disqualification under this subsection shall apply if it is
16 shown that:

17 (1) The individual is not participating in or financing or directly
18 interested in the labor dispute which caused the stoppage of work; and

19 (2) The individual does not belong to a grade or class of workers
20 of which, immediately before the commencement of the stoppage,
21 there were members employed at the premises at which the stoppage
22 occurs, any of whom are participating in or financing or directly
23 interested in the dispute; provided that if in any case in which (1) or
24 (2) above applies, separate branches of work which are commonly
25 conducted as separate businesses in separate premises are conducted
26 in separate departments of the same premises, each department shall,
27 for the purpose of this subsection, be deemed to be a separate factory,
28 establishment, or other premises.

29 (e) For any week with respect to which the individual is receiving
30 or has received remuneration in lieu of notice.

31 (f) For any week with respect to which or a part of which the
32 individual has received or is seeking unemployment benefits under an
33 unemployment compensation law of any other state or of the United
34 States; provided that if the appropriate agency of the other state or of
35 the United States finally determines that the individual is not entitled
36 to unemployment benefits, this disqualification shall not apply.

37 (g) (1) For a period of one year from the date of the discovery by
38 the division of the illegal receipt or attempted receipt of benefits
39 contrary to the provisions of this chapter, as the result of any false or
40 fraudulent representation; provided that any disqualification may be
41 appealed in the same manner as any other disqualification imposed
42 hereunder; and provided further that a conviction in the courts of this
43 State arising out of the illegal receipt or attempted receipt of these
44 benefits in any proceeding instituted against the individual under the
45 provisions of this chapter or any other law of this State shall be
46 conclusive upon the appeals tribunal and the board of review.

1 (2) A disqualification under this subsection shall not preclude the
2 prosecution of any civil, criminal or administrative action or
3 proceeding to enforce other provisions of this chapter for the
4 assessment and collection of penalties or the refund of any amounts
5 collected as benefits under the provisions of R.S.43:21-16, or to
6 enforce any other law, where an individual obtains or attempts to
7 obtain by theft or robbery or false statements or representations any
8 money from any fund created or established under this chapter or any
9 negotiable or nonnegotiable instrument for the payment of money from
10 these funds, or to recover money erroneously or illegally obtained by
11 an individual from any fund created or established under this chapter.

12 (h) (1) Notwithstanding any other provisions of this chapter
13 (R.S.43:21-1 et seq.), no otherwise eligible individual shall be denied
14 benefits for any week because the individual is in training approved
15 under section 236(a)(1) of the Trade Act of 1974, Pub.L.93-618, 19
16 U.S.C.s.2296, nor shall the individual be denied benefits by reason of
17 leaving work to enter this training, provided the work left is not
18 suitable employment, or because of the application to any week in
19 training of provisions in this chapter (R.S.43:21-1 et seq.), or any
20 applicable federal unemployment compensation law, relating to
21 availability for work, active search for work, or refusal to accept
22 work.

23 (2) For purposes of this subsection (h), the term "suitable"
24 employment means, with respect to an individual, work of a
25 substantially equal or higher skill level than the individual's past
26 adversely affected employment (as defined for purposes of the Trade
27 Act of 1974, Pub.L.93-618, 19 U.S.C.s.2102 et seq.), and wages for
28 this work at not less than 80% of the individual's average weekly
29 wage, as determined for the purposes of the Trade Act of 1974.

30 (i) For benefit years commencing after June 30, 1984, for any week
31 in which the individual is a student in full attendance at, or on vacation
32 from, an educational institution, as defined in subsection (y) of
33 R.S.43:21-19; except that this subsection shall not apply to any
34 individual attending a training program approved by the division to
35 enhance the individual's employment opportunities, as defined under
36 subsection (c) of R.S.43:21-4; nor shall this subsection apply to any
37 individual who, during the individual's base year, earned sufficient
38 wages, as defined under subsection (e) of R.S.43:21-4, while attending
39 an educational institution during periods other than established and
40 customary vacation periods or holiday recesses at the educational
41 institution, to establish a claim for benefits. For purposes of this
42 subsection, an individual shall be treated as a full-time student for any
43 period:

44 (1) During which the individual is enrolled as a full-time student at
45 an educational institution, or

46 (2) Which is between academic years or terms, if the individual was

1 enrolled as a full-time student at an educational institution for the
2 immediately preceding academic year or term.

3 (j) Notwithstanding any other provisions of this chapter
4 (R.S.43:21-1 et seq.), no otherwise eligible individual shall be denied
5 benefits because the individual left work or was discharged due to
6 circumstances resulting from the individual being a victim of domestic
7 violence as defined in section 3 of P.L.1991, c.261 (C.2C:25-19). No
8 employer's account shall be charged for the payment of benefits to an
9 individual who left work due to circumstances resulting from the
10 individual being a victim of domestic violence.

11 For the purposes of this subsection (j), the individual shall be treated
12 as being a victim of domestic violence if the individual provides one or
13 more of the following:

14 (1) A restraining order or other documentation of equitable relief
15 issued by a court of competent jurisdiction;

16 (2) A police record documenting the domestic violence;

17 (3) Documentation that the perpetrator of the domestic violence
18 has been convicted of one or more of the offenses enumerated in
19 section 3 of P.L.1991, c.261 (C.2C:25-19);

20 (4) Medical documentation of the domestic violence;

21 (5) Certification from a certified Domestic Violence Specialist or
22 the director of a designated domestic violence agency that the
23 individual is a victim of domestic violence; or

24 (6) Other documentation or certification of the domestic violence
25 provided by a social worker, member of the clergy, shelter worker or
26 other professional who has assisted the individual in dealing with the
27 domestic violence.

28 For the purposes of this subsection (j):

29 "Certified Domestic Violence Specialist" means a person who has
30 fulfilled the requirements of certification as a Domestic Violence
31 Specialist established by the New Jersey Association of Domestic
32 Violence Professionals; and "designated domestic violence agency"
33 means a county-wide organization with a primary purpose to provide
34 services to victims of domestic violence, and which provides services
35 that conform to the core domestic violence services profile as defined
36 by the Division of [Youth and Family Services in] Child Protection
37 and Permanency or an alternate entity within the Department of
38 Human Services designated by the commissioner and is under contract
39 with the division or the designated alternate entity for the express
40 purpose of providing such services.

41 (cf: P.L.1999, c.391 s.1)

42

43 178. Section 35 of P.L.1979, c.496 (C.44:7-93) is amended to read
44 as follows:

45 35. a. As used in this section, "eligible resident" means a resident
46 of a residential health care facility, rooming house or boarding house

1 who is: eligible to receive services under the latest New Jersey
2 Comprehensive Annual Services Program Plan for the use of funds
3 appropriated under Title XX of the [Federal] federal Social Security
4 Act; an "eligible person" under the act to which this act is a
5 supplement; an otherwise aged, blind or disabled person; or a
6 resident designated to be eligible by the Commissioner of [the
7 Department of] Human Services.

8 b. County welfare boards shall provide services to eligible residents
9 of residential health care facilities, rooming houses and boarding
10 houses which shall include, but not be limited to, the following:

11 (1) Investigation and evaluation of reports of abuse or exploitation,
12 as defined in section 36 hereunder, or of threats of such abuse or
13 exploitation of eligible residents, at the direction of the Commissioner
14 of Human Services;

15 (2) Visits to all such facilities having eligible residents, at regularly
16 scheduled intervals to assess the needs of such residents, determine
17 whether they are receiving needed services and appropriate levels of
18 care, and to provide such services where appropriate;

19 (3) Provision of information to eligible residents concerning social
20 service, welfare, mental health, home health and medical assistance
21 programs available to them; referral of eligible residents to State,
22 county and local agencies and organizations for any such services
23 which county welfare boards cannot provide; and follow up to such
24 referrals to determine whether such services are being provided;

25 (4) Reporting of any suspected violations of the provisions of this
26 act and of any complaints received concerning services and conditions
27 in such facilities to the commissioner and to appropriate State and
28 local agencies for remedial action; and

29 (5) Provision of information to eligible residents whose continued
30 residence in such facilities may be injurious or dangerous to their
31 health concerning alternative housing and living arrangements available
32 to them.

33 County welfare boards shall coordinate all services provided under
34 this subsection with services provided to eligible residents by the State
35 Divisions of Mental Health [and Hospitals, Mental Retardation and
36 Youth and Family] Services and Developmental Disabilities and the
37 Department of Human Services, charitable institutions and other State
38 and local agencies and service providers.

39 c. In order to fulfill their responsibilities under subsection b. above,
40 county welfare boards shall be entitled to receive full and free access
41 to residential health care facilities, rooming houses and boarding
42 houses by the owners and operators of such facilities, and to receive
43 cooperation and assistance from State and local law enforcement
44 officials as needed.

45 d. The Commissioner of [the Department of] Human Services
46 shall:

- 1 (1) Promulgate all necessary regulations to implement the
2 provisions of this section;
- 3 (2) Maintain a central file of all complaints received concerning
4 suspected violations of the provisions of this act and concerning
5 services and conditions at residential health care facilities, rooming
6 houses and boarding houses and shall maintain a record of the State
7 and local agencies to which complaints have been referred by county
8 welfare boards; refer any such complaints received by the
9 commissioner to State and local agencies for remedial action as
10 necessary; and follow up all complaints to determine whether such
11 action has been taken;
- 12 (3) Provide such training and educational programs to the operators
13 of such facilities as will enable them to appropriately respond to the
14 needs of their residents;
- 15 (4) Designate agencies to:
- 16 (a) Identify those residential health care facilities, rooming houses
17 and boarding houses in which substantial numbers of persons reside
18 who are in need of mental health or mental retardation services;
- 19 (b) Receive referrals and be responsible for the provision of mental
20 health or mental retardation services, or both;
- 21 (c) Report any apparent violation of this act to the appropriate
22 State and local officials and authorities;
- 23 (d) Coordinate their efforts with county welfare boards, charitable
24 institutions, the State Divisions of Mental Health [and Hospitals,
25 Mental Retardation and Youth and Family] Services and
26 Developmental Disabilities and other entities within the Department of
27 Human Services designated by the commissioner, and other State and
28 local entities and service providers.
- 29 (5) Periodically monitor and evaluate services provided to eligible
30 residents by county welfare boards and community agencies serving
31 the mentally ill and the mentally retarded.
- 32 (6) Issue a report to the Legislature's Standing Reference
33 Committees on [Institutions, Health and Welfare] human services
34 concerning the implementation of this section, 1 year following the
35 effective date of this act.
- 36 e. Any person who submits or reports a complaint concerning a
37 suspected violation of the provisions of this act or concerning services
38 and conditions in residential health care facilities, rooming houses and
39 boarding houses, or who testifies in any administrative or judicial
40 proceeding arising from such a complaint, shall have immunity from
41 any civil or criminal liability on account of such complaint, unless such
42 person has acted in bad faith or with malicious purpose.
- 43 (cf: P.L.1979, c.496, s.35)
- 44
- 45 179. Section 2 of P.L.2000, c.24 (C.52:17B-88.10) is amended to
46 read as follows:

1 2. a. The State Medical Examiner, in consultation with the
2 Commissioner of Health and Senior Services, shall develop
3 standardized protocols for autopsies performed in those cases in which
4 the suspected cause of death of a child under one year of age is sudden
5 infant death syndrome and in which the child is between one and three
6 years of age and the death is sudden and unexpected.

7 b. The State Medical Examiner shall establish a Sudden Child
8 Death Autopsy Protocol Committee to assist in developing and
9 reviewing the protocol. The committee shall include, but shall not be
10 limited to, the State Medical Examiner or his designee, the Assistant
11 Commissioner of the Division of Family Health Services in the
12 Department of Health and Senior Services or his designee, the
13 Director of the Division of [Youth and Family Services] Child
14 Protection and Permanency in the Department of Human Services or
15 his designee, the director of the SIDS Resource Center established
16 pursuant to P.L.1987, c.331 (C.26:5D-4), an epidemiologist, a
17 forensic pathologist, a pediatric pathologist, a county medical
18 examiner, a pediatrician who is knowledgeable about sudden infant
19 death syndrome and child abuse, a law enforcement officer, an
20 emergency medical technician or a paramedic, a family member of a
21 sudden infant death syndrome victim and a family member of a sudden
22 unexpected death victim who was between one and three years of age
23 at the time of death.

24 The committee shall annually review the protocol and make
25 recommendations to the State Medical Examiner to revise the
26 protocol, as appropriate.

27 c. The protocols shall include requirements and standards for scene
28 investigation, criteria for ascertaining the cause of death based on
29 autopsy, criteria for specific tissue sampling, and such other
30 requirements as the committee deems appropriate. The protocols shall
31 take into account nationally recognized standards for pediatric
32 autopsies.

33 The State Medical Examiner shall be responsible for ensuring that
34 the protocols are followed by all medical examiners and other persons
35 authorized to conduct autopsies in those cases in which the suspected
36 cause of death is sudden infant death syndrome or in which the child
37 is between one and three years of age and the death is sudden and
38 unexpected.

39 d. The protocols shall authorize the medical examiner or other
40 authorized person to take tissue samples for research purposes if the
41 parent, parents or legal guardian of the deceased child provides written
42 consent for the taking of tissue samples for research purposes.

43 e. The sudden infant death syndrome autopsy protocol shall
44 provide that if the findings in the autopsy are consistent with the
45 definition of sudden infant death syndrome specified in the protocol,
46 the person who conducts the autopsy shall state on the death

1 certificate that sudden infant death syndrome is the cause of death.
2 (cf: P.L.2000, c.24, s.2)

3
4 180. Section 8 of P.L.2000, c.77 (C.53:1-20.9b) is amended to
5 read as follows:

6 8. a. The Commissioner of Human Services is authorized to
7 exchange fingerprint data with, and to receive information from, the
8 Division of State Police in the Department of Law and Public Safety
9 and the Federal Bureau of Investigation.

10 Upon receipt of the criminal history record information for an
11 applicant or staff member of a child care center from the Federal
12 Bureau of Investigation and the Division of State Police, the [Division
13 of Youth and Family] Department of Human Services shall notify the
14 applicant or staff member, as applicable, and the child care center, in
15 writing, of the applicant's or staff member's qualification or
16 disqualification for employment or service under P.L.2000, c.77
17 (C.30:5B-6.10 et al.). If the applicant or staff member is disqualified,
18 the convictions that constitute the basis for the disqualification shall
19 be identified in the written notice to the applicant or staff member.
20 The applicant or staff member shall have 14 days from the date of the
21 written notice of disqualification to challenge the accuracy of the
22 criminal history record information. If no challenge is filed or if the
23 determination of the accuracy of the criminal history record
24 information upholds the disqualification, the [Division of Youth and
25 Family] Department of Human Services shall notify the center that the
26 applicant or staff member has been disqualified from employment.

27 b. The Division of State Police shall promptly notify the [Division
28 of Youth and Family] Department of Human Services in the event an
29 applicant or staff member who was the subject of a criminal history
30 record background check conducted pursuant to subsection a. of this
31 section, is convicted of a crime or offense in this State after the date
32 the background check was performed. Upon receipt of such
33 notification, the [Division of Youth and Family] Department of
34 Human Services shall make a determination regarding the employment
35 of the applicant or staff member.

36 (cf: P.L.2000, c.77, s.8)

37
38 181. The Commissioner of Human Services, pursuant to the
39 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
40 seq.), shall adopt rules and regulations necessary to carry out the
41 provisions of this act.

42
43 182. This act shall take effect on the 60th day after enactment,
44 except that sections 6 through 16 shall take effect on the 180th day
45 after enactment. The Commissioner of Human Services may take such
46 anticipatory administrative action in advance of the effective dates as

1 shall be necessary for the implementation of the act.

2

3

STATEMENT

4

5 This bill restructures child protection services within the
6 Department of Human Services, renames the Division of Youth and
7 Family Services (DYFS) as the Division of Child Protection and
8 Permanency (DCPP), and provides for a third deputy commissioner
9 within the department to assume responsibility for direct supervision
10 of children's services.

11 Specifically, the bill continues and reconstitutes DYFS as DCPP, to
12 which the Commissioner of Human Services is to assign the core
13 functions of child protection, foster care and adoption from among the
14 various responsibilities of the former DYFS, as provided pursuant to
15 this bill and any other statute or regulation.

16 The bill stipulates that:

17 (1) The functions, powers and duties of the former DYFS that are
18 not allocated to DCPP pursuant to this bill are continued and allocated
19 within the department;

20 (2) The commissioner will have the authority to assign and reassign
21 the functions, powers and duties of children's services within the
22 department, including those of the former DYFS, among any division,
23 board, body or other organizational unit within the department as the
24 commissioner deems appropriate, provided that any functions, powers
25 and duties assigned to DCPP are not to be such as to interfere with the
26 core functions of DCPP as provided in this bill; and

27 (3) The commissioner will have the discretion to deploy Human
28 Services police officers to assist caseworkers in DCPP to carry out
29 their responsibilities, including locating families, and to improve the
30 safety of caseworkers.

31 The bill is intended to permit DCPP to focus its efforts on child
32 protective services, foster care and adoptions; and, to that end,
33 amends various sections of law to transfer from DYFS to the
34 department responsibility for:

35 -- licensing prospective foster parents, foster homes and child care
36 centers;

37 -- registering family day care providers;

38 -- conducting criminal history record background and child abuse
39 information checks on prospective foster parents, prospective family
40 day care providers and members of their households and owners and
41 sponsors and employees of child care centers, as applicable; and

42 -- administering the "Domestic Violence Victims' Fund."

43 The bill also requires the department to establish a training academy
44 in order to ensure proper case management and develop effective
45 leadership within DCPP.

46 The training program provided by the training academy for

1 casework staff is to:

2 -- include a case practice curriculum;

3 -- utilize a curriculum that provides exposure to the best practices
4 in case management through didactic and experiential learning,
5 including, but not limited to, such topics as: the legal basis for
6 children's social services, the conduct of child abuse and neglect
7 investigations, age-appropriate interviewing techniques, case
8 assessment, evaluation of safety and risk factors, permanency, types
9 of abuse, the closing of cases, and case planning and provision of
10 services; and

11 -- require that all caseworkers within DCPD complete any course
12 that they are required to take under the training program prior to
13 assuming sole responsibility for a case.

14 The training program provided by the training academy for
15 supervisory and management staff is to:

16 -- include both a case practice and organizational management
17 curriculum;

18 -- utilize a curriculum that provides exposure to the best practices
19 in leadership through didactic and experiential learning, including, but
20 not limited to, such topics as: leading in a social services environment,
21 becoming an agent for change while championing stability and
22 permanency, leading and following as dynamics of organizational life,
23 leading across cultures, social services management, social policy and
24 program planning, evaluating social programs, and assessing the
25 impact of the life cycle stage of employees; and

26 -- require that all supervisors and managers who hold a leadership
27 role within DCPD complete any course that they are required to take
28 under the training program with one year of assuming a leadership
29 role.

30 The bill also requires the commissioner to conduct a study to
31 evaluate case complexity and to make recommendations for and
32 implement workload standards. The purpose of the study is to provide
33 district office and adoption resource center supervisory staff with a
34 means to more effectively allocate caseworker staff to meet the needs
35 of children who are under the care, custody or supervision of DCPD.

36 The study, at a minimum, is to take into account the following
37 factors:

38 -- the number of siblings under the care, custody or supervision of
39 DCPD living in the same household, and the number of siblings living
40 in different households;

41 -- whether the child, or the child's parent, has significant physical
42 or mental health needs or has a substance abuse disorder;

43 -- whether the child has other significant social service or
44 educational needs that require specialized services;

45 -- the distance between the caseworker's district office or adoption
46 resource center and the home or out-of-home placement of the child;

1 -- whether there is court involvement in the case; and
2 -- whether the child, or the child's parent, has a past history with
3 DCPD.

4 The bill also requires that the commissioner report to the Governor
5 and the Legislature: (1) no later than 16 months after the effective date
6 of the bill, on the findings and recommendations and implementation
7 plan resulting from the study to evaluate case complexity and to make
8 recommendations for and implement workload standards pursuant to
9 section 4 of the bill; and (2) no later than one year after the effective
10 date of the bill, on: the structure of children's services within the
11 department; the implementation and status of the training programs
12 provided by the training academy in DCPD; and the results of the study
13 conducted by the commissioner to determine how to best enhance the
14 professionalism of child welfare practitioners in DCPD.

15 Furthermore, the bill amends N.J.S.A.9:6-8.10a to permit DCPD to
16 share records of child abuse reports with another State department or
17 agency, authorized to care for, treat or supervise a child who is the
18 subject of a child abuse report, when the information is needed for the
19 protection of the child, in connection with the provision of care,
20 treatment or supervision to the child or the parent, guardian or other
21 person.

22 In order to provide for the safety of children in out-of-home
23 settings, the bill requires criminal history record background and child
24 abuse record information checks for existing staff and employment
25 applicants at residential child care facilities in the State. "Residential
26 child care facility" is defined as any public or private establishment
27 subject to the regulatory authority of the department that provides
28 room, board, care, shelter or treatment services for children on a
29 24-hour-a-day basis, including: residential facilities operated by or
30 under contract or agreement with DCPD; group homes, treatment
31 homes, teaching family homes, alternative care homes and supervised
32 transitional living homes operated by or under contract or agreement
33 with DCPD; and shelter care facilities and homes, including shelters
34 serving children in juvenile-family crisis and in need of temporary
35 shelter care.

36 Staff members and employment applicants with a record of
37 conviction for certain specified crimes enumerated in the bill would be
38 permanently disqualified from employment at or administering a
39 facility, except that the department may approve the employment of
40 the individual at, or the individual's administration of, the facility if
41 certain conditions are met. In the case of any crime or offense other
42 than those enumerated in the bill, an applicant or staff member may be
43 eligible for employment at, or to administer, a facility if the department
44 determines that the person has affirmatively demonstrated clear and
45 convincing evidence of rehabilitation.

46 The bill provides that the final determination regarding the

1 employment of an administrator of a facility with a criminal conviction
2 shall be made by the department, and the final determination of a staff
3 member or applicant with a criminal conviction shall be made by the
4 administrator of the facility or the facility's board of directors.
5 Further, the bill provides that if an administrator of a facility has
6 knowledge of criminal charges pending against a staff member, the
7 administrator shall promptly notify the department to determine
8 whether any action concerning the staff member is necessary in order
9 to ensure the safety of the children who are placed in the facility.

10 The bill also provides immunity from liability to a facility for acting
11 upon or disclosing information about the disqualification or
12 termination of an applicant or staff member to another facility seeking
13 to employ that individual under certain conditions.

14 To ensure that the background check information is kept current,
15 the bill provides that the Division of State Police shall promptly notify
16 the department in the event an applicant or staff member who was the
17 subject of a criminal history record background check conducted
18 pursuant to this bill, is convicted of a crime or offense in this State
19 after the date on which the background check was performed. Upon
20 receipt of such notification, the department shall make a determination
21 regarding the employment of the applicant or staff member. Further,
22 the bill provides that if an administrator of a facility has knowledge of
23 criminal charges pending against a staff member, the administrator
24 shall promptly notify the department to determine whether any action
25 concerning the staff member is necessary in order to ensure the safety
26 of the children who are placed in the facility.

27 In the case of a facility located outside the State serving children
28 who are residents of the State, the bill directs the administrator of the
29 facility to: (1) ensure that an applicant or staff member meets all
30 applicable laws and regulations in that state governing criminal history
31 record background and child abuse record information checks; and (2)
32 require that the applicant or staff member make a voluntary disclosure
33 of any criminal conviction (if the checks are not mandated), so the
34 department can determine the suitability of the individual for
35 employment at the facility during the time children who are residents
36 of the State are placed in the facility.

37 Finally, the bill provides that the department shall be responsible for
38 the cost of processing and funding the required criminal history record
39 background and child abuse record information checks.